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AN

# INQUIRY

INTO THE

## MORAL AND RELIGIOUS CHARACTER

OF THE

### AMERICAN GOVERNMENT.

*By Henry William Warner, d. 1875*

"A commonwealth ought to be but as one huge christian personage, one mighty growth and stature of an honest man, as big and compact in virtue as in body."

*Milton's Prose Works.*

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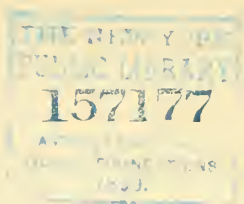
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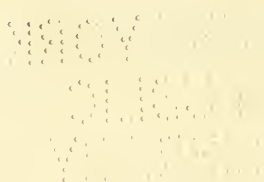
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## ADVERTISEMENT.

THE writer of the following essay has aimed to do what he thought the times imperiously called for.

It has seemed to him that for some years past there has been a dangerous and growing misapprehension in the public mind as to the true constitutional relation of our political interests to those of a religious nature. He has seen with anxiety that even wise and good men, some of them his personal friends, have gradually given way to the opinion, which men of another stamp have made it their business to inculcate, that these two classes of interests ought to be kept so wide apart from each other in the conduct of our public affairs, as to have no reciprocal influence take place between them. He had thought that christianity was admirable everywhere and in all circumstances. How is it possible that political life

should form an exception? The church indeed is a thing by itself; but this is but a part of christianity; what becomes of the residue, the great principles of its moral code? Are politicians to reject these also? Have they not committed the mistake of regarding the church as equivalent to the whole system, and so rejecting the whole because the church is not to be meddled with? Can the facts of the case be otherwise accounted for?

Such at any rate has been the writer's impression, and he has derived from it the chief motive for what he has done. The reader will judge of the rest.



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#### ERRATA.

- Page 61, line 6 from the bottom, for "sanctity" read *sanity*.  
" 88, line 5 from the bottom, for "design" read *designs*.  
" 102, line 11 from the top, for "goodness" read *his goodness*.  
" 175, line 12 from the top, for "contests" read *contest*.



## CONTENTS.

### CHAPTER I.—INTRODUCTORY.

### CHAPTER II.—THE FEDERAL CONSTITUTION EXAMINED.

SECTION I.—*The Letter of the Constitution.*

—— II.—*General Views of Constitutional  
Law.*

### CHAPTER III.—HISTORICAL VIEW OF THE SUBJECT.

SECTION I.—*The Principle.*

—— II.—*Settlement of the Country.*

—— III.—*Subject continued.*

—— IV.—*Facts reviewed with reference to  
their Causes and the Conclusion to be drawn from  
them.*

### CHAPTER IV.—PRIMARY STATE CONSTITU- TIONS.

### CHAPTER V.—PRESENT CHARACTER OF THE STATE SYSTEMS.

CHAPTER VI. — POLICY OF THE FEDERAL GOVERNMENT HISTORICALLY CONSIDERED.

SECTION I. — *The Legislature.*

—— II. — *Executive policy.*

—— III. — *Federal Judiciary.*

—— IV. — *Results.*

CHAPTER VII. — QUESTION OF EXPEDIENCY CONSIDERED.

SECTION I. — *Direct Bearings of the Question.*

—— II. — *Christianity Favourable to Popular Intelligence.*

—— III. — *Christianity Favourable to Popular Virtue.*

—— IV. — *Christianity Favourable to Liberty.*

CHAPTER VIII. — POPULAR MISTAKE CORRECTED.

CHAPTER IX. — CONCLUSION.

## CHAPTER I.

### INTRODUCTORY.

NATIONS, like individuals, should endeavour to learn something from the ills they suffer. It is especially becoming in a free people, when visited with chastisement, to consider wherein they have provoked the rod, and as far as may be, to compensate their misfortunes by growing wiser and better under them.

We have run into many novelties both of opinion and practice. Our fathers had no conception of some of the modern notions of what are called state-rights; and I believe they would have stood amazed at the kind of suggestion now current in the country, that a government such as they have left us, so respectful of the rights of man in every form, ought yet to be administered with as little avowed deference as possible for those of the supreme being. Priestcraft is an evil of no late discovery: the danger of formal alliances between

church and state, is matter of history long and well understood: but the propriety and merit of *political irreligion*,—of carrying on the business of the commonwealth *professedly* as “without God in the world,”—this, so far as I know, is what was never openly taught and accredited till very recent times.

President Jefferson was the first American teacher of this sort of doctrine. When applied to in 1807 to recommend to his fellow-citizens a day of national humiliation and prayer, he excused himself by alleging that he had not the *power* to do it; and he affected to maintain his dogma, then a most novel and surprising one, by argument. “I consider the government of the United States,” said he, “as *interdicted by the constitution* from intermeddling with religious institutions, their doctrines, discipline, or exercises.” This results not only from the provision that no law shall be made respecting an establishment of religion, but from that also which reserves to the states the *powers* not delegated to the United States. “Certainly,” he continued, “no *power to prescribe* any religious exercise, or *to assume authority* in religious discipline, has been *delegated* to the general government.” Whence he concludes, “it must then rest with the states.”

Nor has the sophistry of this reasoning made it harmless. President Jackson, after Mr. Jeffer-

son's example, refused in 1832 to say a word to the people about humbling themselves before their maker; though it was a time, if ever there was one, that demanded some signal act of religious self-abasement and sorrow at our hands; for it was during the first cholera season, when the angel of destruction was hovering over us with dreadful omen, darkening the heavens with his wings, and scattering unheard-of plagues upon the earth. It was a strange thing to hear from the chief magistrate of a people circumstanced as we were then, that he could lend no countenance to the piety of our wishes, and was even prohibited by the fundamental laws from recommending the slightest public acknowledgement of that deity whose judgements were so visibly abroad.

Congress, without exactly following in this track, have too often acted in the same spirit. It is not a great while since a member of the federal senate declared in his place, that the very record of our religion was "an unfortunate reference," a bad authority to quote, in the debates of that body; in a word, "that no senator had a right to allude to it:" while in the other house, (omitting minor proofs,) there is an odour that will not soon die away, entailed upon its memory by the report of the majority of a certain sabbath-mails committee; where the occasion furnished by a number of modest and respectful petitions, which

had come up from various quarters to solicit the fathers of the nation on a point of christian morals, was perverted, in the face of the world, to the maligning of christianity itself.

And instead of these scandals having been wiped away by the rebuke of the country, they seem to have carried the country along with them. Praise, rather than censure, has in general waited on irreligion wherever it has appeared in our official politics. Most of our functionaries nowadays are party-men ; and it is astonishing with what facility such men, with station to aid them, create opinions for the public mind. If they tell us Baal is God, Baal becomes at once the object of an extended popular worship. They have but to speak the word, and immediately a thousand newspapers publish it ; a whole race of minor demagogues repeat and inculcate it ; ignorance is led captive ; intelligence itself gives way to clamour ; reason fails of its office ; error and passion march in triumph through the land.

It is of the lot of error too, as it advances in popularity, to be gradually curtailed of the alleviating or disguising qualifications that were found convenient to be thrown around it at first. Mr. Jefferson's argument against political christianity was founded on certain peculiarities of the federal system, and to that system he confined its application. Instead of saying that religious observances



ought to be scouted from the country,—a proposition too bold to begin with,—he barely urged that federal authorities should keep clear of them; leaving the particular states to act as they pleased. But the men of our day go further. Separating Mr. Jefferson's dogma from his argument, they generalize it into a universal maxim, and insist that even the state-governments ought to shut their doors against all manner of religious concerns.

And this, from appearances, may yet be done. Who does not remember what has lately happened on more than one occasion in the legislature of New-York, upon the ordinary motion for appointing a chaplain? What mind, capable of just reflection, but has been shocked by the insinuations and avowals which that harmless motion gave rise to?—a motion called for by invariable usage, and which decency itself had placed in the rubrick of things never to be omitted. Nor was the example thus set permitted to fall to the ground. Connecticut, even Connecticut, stooped to a legislative controversy about imitating it. So that the question seems fairly up for decision, whether the makers of human laws are any longer to recognise the claims of a superior lawgiver; or whether the honour of serving the people be not too high to allow of any measure of service or homage towards the majesty of heaven.

The evil is spreading. The same misconception of the genius of our institutions, attended with the same extravagance and folly of development, may be seen and heard at all the corners of the streets from Portland to New-Orleans. The whole land is infected and becoming sick with the notion, that somehow there is that in the nature of our government, that calls not only for caution in regard to religion, but for distrust and jealousy against it. With a certain set, it is already fashionable to rail against religion under the very pretext of patriotism or regard for the laws; and whether in private society, or through the press, or amid the councils of the nation, no opportunity of setting up the *republican* in contradistinction, if not in opposition to the *christian*, comes to these gentlemen in vain. Piety is to them an offence. One of our most widely circulating journals lately paraded among the numerical objections of its editor to a particular candidate for the presidency, that he was *too religious*. It is not enough to put religious citizens on a level with the irreligious and profligate, they must be disparaged in the comparison; they must be frowned upon as objects of political aversion.

No doubt the far greater number of those who indulge this tone of feeling, do so without looking after logical or even intelligible reasons for it, and only because it suits their predilections. Men who



hate religion are easily satisfied with grounds for opposing it. Bad principles find conclusions by affinity rather than by logic. The constitution is a popular theme ; the theme of all demagogues and of most villains ; and the possibility of turning it to ends of infidel scoffing and impiety, has added more heads than those of the majority of the sabbath-mails committee.

On the other hand, it is not to be concealed that there are men of fair lives and reputable standing, men who perhaps detest the whole herd of the profane, but who yet have drifted far enough on the prevailing tide to hold opinions on this subject better suited to characters of a different stamp. These men, let us admit, are *honestly irreligious* in their politics. Some of them take credit for being particularly conscientious. One of the anti-chaplain objectors in the Connecticut legislature, appealed stoutly to his conscience, (his republican conscience I presume,) for the zeal with which he endeavoured to hold back his law-making brethren from their accustomed devotions. He was unable, it seems, to lay his finger on the clause (and nothing less would satisfy him) in the charter of his little sub-republic, (I am afraid the defect is common to all our charters,) where the *power to pray* was *delegated* to them ; and how could they pray without a *power* ? especially after a philosopher-president had found it impossible even

to advise such an act, without the people's sign-manual to show for it!

But the point in which reputable citizens are seen in greatest numbers to go hand in hand with the revilers, is the elective franchise; and a point it is of infinite importance; the only one indeed where private politics can put on the significance of practical things. And how extensively and generally characters the most opposite to each other in their moral features, meet and harmonize in this vital point, let the polls testify; let multitudes of the so-called wise and good, and (shall I say it?) *pious* of the land,—men who go to the polls in black coats and long faces, and probably with honest hearts,—confess and be ashamed. Has it not become a cant among us, that *as electors* we have nothing to do with men's religious sentiments; no right even to inquire about them? Twenty gods or no god, or the God that made the worlds, is quite indifferent: papists and protestants are one; socinians, jews, and evangelical believers, all one; yes, and the tattooed cannibal of the South Sea, were he to honour our asylum of liberty by seeking a lot in its blessings, would enter at once into the same family circle of undistinguished and indistinguishable unity; free alike to live among us, and to rise above our heads; for the doctrine is, that whoever is entitled to sit in the shade of the constitutional tower, has a right also

to scale its walls. In a word, religion, even with those who make profession of it, is *nothing at an election*.

And though the fact is not to be accounted for like that of the conscientious heathenism of some of our law-makers, there being here no imaginable lack of *power* to do what is seen to be right; yet the laws are still appealed to in another fashion, as really making it necessary to do wrong. The electors, it is said, are but fatalists of the constitution after all, and go no further than they must. They do not mean to put vice above virtue, but just in a rank of equality with it. Equality they take to be an undoubted element of our legal system, and they apply the principle indifferently to rights of protection under the government, and rights of electioneering ambition that would take the government in hand. And as neither infidelity nor atheism, nor yet the personal impurity and vileness which these engender, is sufficient cause for interfering with the immunities or liberties of a private citizen, why should they hinder his political advancement? Does the constitution warrant that distinction? Has not Mr. Jefferson's famous statute of religious freedom settled the point forever that it does not? If men are equal as citizens, why not also as candidates for office?

So far has this conceit prevailed, that not even the most delicate trusts of civil life, such as the

presidency of colleges and modelling of our youth, are exempt from the *constitutional pretensions* of men confessedly hostile to the religious faith of those they claim to act for. Witness the case of doctor Cooper and the college of South Carolina. And I remember to have heard a zealous papist complain, as of a wrong *against the spirit of the laws*, that some village parents had thought his creed an objection to his being entrusted with the training of their protestant children.

The sum of all is this, that one way or another, that religion which has given us a name among the states of christendom, and which many of us deem essential to our future well-being as a people, is everywhere *politically set at nought*; regarded as an outlaw to the institutions of the country; a feather in the scale of its interests; as useless, if not discreditable in public life; and in reference to the elective sovereignty itself, not to be thought of!

Now to what are these things tending? How are they likely to affect the destinies of a people known rather in blood than in present character as the posterity of the pilgrims? We are told our government rests on public opinion. No doubt it does; and just as that foundation shall prove sound or rotten, will the proud superstructure abide or perish. But public opinion carried out in action, is but another name for public morals; and of the *morals* of a people it is not too much to

say, that they are the vital organ of existence — an organ sensitive in the extreme to every influence, and in which, at the same time, changes for the worse can never happen in any marked degree, but under peril of life itself. So that if religion be to public morals what these are to the general welfare, what is our prospect ?

It is true, religion has not now to contend for the first time with infidelity and vice ; they are its old enemies ; and, upon equal terms, it can both maintain its ground among them and achieve an ultimate mastery over them. But if the principalities and powers of government are to be enlisted on the other side — a novelty without example since the world began, but in one wild instance ; if the people are to see the claims of religion spurned and ridiculed by those who are over them in state affairs ; if scoffers and blasphemers are to have pre-eminence among them as favourites of the constitution and entitled to its chief honours ; who can answer for the effects which under God may be allowed to ensue, in filling up the measure of our national offences, and visiting them at last with their deserts ?

For one, I am not ashamed to own myself afraid of these consequences. The country seems to me to abound already with indications pointing that way. What is the growing rage and insolence of faction among us, but evidence that whatever be



the spirit we are of, the temperate virtues of christianity are no part of it? What is the triumph of party zeal over everything else in our official administrations, but a sign that christian honesty is as rare as christian meekness in the conduct of our affairs? What are the rudeness and profaneness of speech that degrade some of the highest places of the government? what the mobs and violences and atrocities, unheard-of till of late, among the people; the contempt of law, in a land where law is of the essence of liberty no less than of social order; the outrages perpetrated daily and openly, and by persons of some standing too, against the lives and property of many citizens and the peace of all — what are these, but an assemblage of proofs, that the tone of our morals is fearfully relaxed, and that if the fiat, “let them alone,” were to be heard in heaven, we might look in vain for a redeeming principle of health in the body politic to save it from utter dissolution.

But without regarding the subject in its worst lights, there yet is cause enough for pondering with some interest on that feature of our condition, that strange peculiarity in the state of our opinions and morals, indicated by the political disrepute into which the religion of the country is fallen. Is it possible to interpret such a circum-

\* This was written before Mr. Van Buren's accession to the presidency.

stance favourably? Can any good come of it? and if not good, then what but evil? Politicians should think of this. And if, by the mercy of God, there is yet a portion of the people left, who are conscious of higher motives than the passing hour suggests, they also will do well to think of it—and promptly: a little more progress in our present course, and it may be too late to think with advantage.





## CHAPTER II.

### THE FEDERAL CONSTITUTION EXAMINED.

#### SECTION I. — *The Letter of the Constitution.*

BEGINNING therefore at the ostensible head of the mischief, let us see in the first place, whether the federal constitution is liable, in any just view of it, to the reproach of giving countenance to unchristian politics.

The provisions of that instrument in regard to religion are but two, and those, it must be owned, of a negative character; expressing no positive favour to the subject, and only guarding against abuses. Such is the general state of the case.

Upon which two observations occur. The best things are the most conspicuously liable to abuses, and so are rather honoured than dishonoured, if either, by being furnished in advance with protection against them. And as for any argument that can be drawn from the absence of terms of posi

tive favour to religion, it will lie with equal force against agriculture, commerce, manufactures, virtue itself; for they are all under like neglect; the object of the constitution being to distribute power, not favour; to frame a government, and not to forestall and clog the administration of it by words of preconceived partiality for this or that possible subject of its future action.

But what is the precise import of the provisions in question? One of them declares “that no religious test shall ever be required as a qualification for any office or public trust in the United States;” the other, “that congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” These are the words, and all of them.

And now the point to be considered is, whether these words convey a meaning, or will bear a construction, unfriendly to religion. If so, it must be for one or the other of two reasons in matter of fact — either that the tests and establishments thus provided against are *abuses of religious origin*, or that their mischievous tendency is *caused or aggravated by religious influence*: for if religion neither gives rise to those abuses, nor in any way contributes to their evil consequences, then it would seem, that whoever is guilty, religion must go clear.

It is common, I believe, to speak of tests and

establishments as religious institutions. Admitting they could justly be regarded in that light, still they are not of the essence of religion, and might therefore be denounced by the constitution, and by all the world, without necessarily dragging religion itself along with them into the same disgrace. If a person were heard to rail against monasticism, or the inquisition, it would hardly prove him an infidel; he might be a good man and a christian nevertheless. Religion, and most of the institutions found in nominal connexion with it, are so entirely distinguishable and so often misjoined, that no general inference can be safely drawn from one to the other.

But the fact assumed here is as false as it is inconclusive. Tests and establishments are *not* religious institutions. They are the handywork of political men, designed for political uses. Involving the exercise of state power, and looking to ends of state policy, they are emphatically things of state. The church, or its friends as such, have generally no agency in creating them; much less have they any authority or resources of their own that could bring them into being. And accordingly it is not against the church or its friends that the barriers of the constitution are reared. The prohibition is directed to congress, to the law-making functionaries; men, who if not restrained, would at least be able to do that

which it is thought fit to interdict. So that precisely as a statute made for regulating commerce, would be an act of political government, not of trade ; in like manner, a provision for imposing a formulary of religious profession as a test of eligibility to offices and trusts in the state, or for assuring in any other way or measure the patronage of the state to a particular class of religionists, would be an act of the same kind of government, and not an institute of religion, or for which religion could be held responsible in the remotest degree.

If then it be illogical to argue from an abuse to the thing abused, what shall be said of the injustice and absurdity of arraigning religion for abuses *not her own*, but of which she is only the passive subject, and made such by a power with which she has absolutely nothing in common ?

The working, moreover, of these truly secular institutions, is of a character with the source they spring from. The motives they employ, and the principles of action they appeal to, are wholly secular. A test-law is a partial or qualified establishment of religion ; and it is fair to say of all establishments of that nature, that they tempt mankind with worldly motives to conform to a political standard of religious profession. They are bribes tendered by government to the consciences of the people. Their language to every one is, “ swear,

subscribe, make a pretence ; and the god of this world shall provide for you.”

Is this the voice of the pure spirit ? or one with which that spirit can be suspected of harmonizing for any imaginable purpose ?

But perhaps it is thought that religion, though incapable of offering bribes, or joining actively in any sort of vicious instrumentalities, may yet be chargeable with yielding sometimes to their influence, and giving up her servants to be led astray by them. Appearances too often pass for realities. There are dead men that have “a name to live ;” nay, that appear abroad and make a figure on the stage of life : but let not the mimicry of shadows be mistaken for the workings of immortal substance and vitality. Religion (I speak of christianity, the only religion known to the laws) can no more receive corruption than impart it. Religious men, as such, have one master and but one ; they can serve no more. And when persons calling themselves religious, take to the service of the world ; when the lust of the world’s honours and emoluments becomes too strong for their principles, and leads them into a self-indulgent venality which they would otherwise avoid ; the very fact is conclusive against them, that they are worldly men, and have had no more to do with religion than just to profess and betray it.

Seeing therefore that from beginning to end ;

in parentage, in policy, in operation and even in subjects of influence; the tests and establishments misnamed religious in the constitution, are purely secular; we have a clew to the evils that have rendered them so deservedly odious,—evils which on examination will be found precisely such as they might be expected to produce.

Hypocrisy and falsehood are the first fruits. The rewards of conformity are too enticing to be withstood by mere nominal christians, men who have the form of godliness without its power; while multitudes, who are alike strangers to both, take the bait with still greater facility. The cases of fact are various: in some the sacrifice seems greater than in others; but in all, truth is the victim.

And when this preliminary sacrifice is past, and the sanctum of a political church (for such it is) thrown open to the religionists of policy; the next development in due course, is one of pride, vainglory and intolerance: beyond which, in circumstances allowing further progress, the step is natural and easy to persecution, the last villany of church-and-state combinations. He who begins a race of ambition by throwing truth behind him, is not likely to pick up many of the self-denying virtues in the sequel of his career. When first principles are perverted, the opportunities of place



and power only serve to bring out the character into more hideous distortion.

But what connexion have evils like these with a religion which is plainly their opposite in every point? Are deception, and priestcraft, and ecclesiastical tyranny, to be confounded with sincerity, meekness, gentleness, brotherly kindness, charity? May not vices and abominations be put in check, without disparagement to qualities they have no relation to but by contrast?

The state itself is doubtless apt to suffer prejudice from the experiment so often tried, of drawing the church's affairs into joint stock with its own. Not however because religion is ever a party to connexions of that kind. It is generally not religion, but the church; nay, it is not the church, but a corrupted and degraded part of it, that enters into those arrangements. Religion scorns such harlotry. And it is because she does so, and because, in her absence, she is thus vilely personated in the embraces of the state, that the issue of those conjunctions is so vile.

And after all, religious interests are more hurt than any others by establishments of religion so called. It is not by secular power that the truths of christianity are to prevail on earth. God will have service, not partnerships. Least of all will he divide his glory with politicians, a class of men whom he permits at times to mar his work and

hinder the progress of his cause, but whose counsel he despises, and whose co-operation he rejects. Nothing is more to be deprecated by those who love the prosperity of his kingdom, than the stretching forth of political hands towards the ark of his covenant: it is superfluous; it is unlawful; it is presumptuous; it tends only to mischief.

And why should an ill construction be put upon the care taken in the great charter of the country to prevent this mischief? Why turn good into evil? Why imagine that the church and people of God have been thus hedged in from the pollution of state-contact, not for their own advantage, not for any purpose of goodwill towards them, but just to give vent to legislative spleen? to enmity?

Observe, moreover, that the same clause that interdicts establishments of religion, guards forever the freedom of its exercise. What does this mean? is this too done in wrath? Religion in exercise, is active-piety; it is religion abroad in the world, showing itself to friends and foes, displaying the attraction of its graces, wielding openly the engines of its mild but transforming influence: for all which, it seems, there is a warrant of perpetual liberty. Is not this encouragement? If nowhere else, have we not here a token of positive favour?

Upon the whole, it must, I think, be deemed a very moderate conclusion, and quite within bounds,



to say of the express provisions of the constitution, that they are neither unfavourable to religion nor intended so. The interests of religion alone considered, nothing better could have been done. Christianity, like trade, thrives best by itself. To be let alone, is all it craves of sublunary power.

## SECTION II. — *General Views of Constitutional Law.*

Passing therefore from the written terms of the national compact, let us see, in the next place, how a question which these, to say the least, do not embarrass, stands affected by some considerations of fact and reason bearing intimately upon it.

Written constitutions are necessarily brief. It is impossible that a whole people should come at once to an agreement as to all the details of legal regiment proper even for their statute-book; much less can they be expected to put down on paper the unnumbered rights and interests that need no paper evidence, and call for no positive legislation, but which, as appertaining to the political and civil patrimony of all men, are the undoubted property of all, and therefore, as of course, to be preserved and cherished under every government, be it what it may in other respects.

Nor is such precautionary exactness needful, though it were feasible. The omission of a bill of rights from a state-charter, leads to no uncer-

tainty, no insecurity. Such charters take nothing from the citizen but by concession. What he notoriously possesses at the time, and does not give up, it needs no formal article to declare that he retains. And even the little that he does give up, is understood on all hands to be yielded for the direct purpose of securing for what he retains a more perfect protection than his own personal energies and resources can make good.

Constitutions of government are but administrative systems. They are not the foundations of our rights, but superstructures of convenience for housing and nourishing, for guarding, fostering and perpetuating them. The moment a government does more than this, it oversteps the line of legitimate policy. Government is a means, not an end; its use is to preserve peace, order, justice, among men; justice, with a view to peace and order; justice, in the largest application, extending not only to those rights and interests which the laws may happen to honour with a verbal recognition, but also and equally to thousands of others unmarked with that distinction, but which, from their intrinsic value and self-evidence, are yet to be held sacred.

And this appears to be the public sense of the country on the subject. We have rights which the whole nation, sitting in judgement on the question, have pronounced inalienable; rights, in

other words, which we could not get rid of if we would. And “among these,” it is said, (of course not constituting all of them,) “are the rights of life, liberty, and the pursuit of happiness.” The enumeration is short, but admirably comprehensive; covering a great deal of ground which no written constitution, bill of rights, or statute-book, ever formally touched. Whatever appertains to *life*, and the enjoyment of it; to *liberty*, with its ten thousand functions and prerogatives; to the *pursuit of happiness*, through every walk of business and pleasure, and by every instrumentality of genius, enterprise, industry, benevolence, and I will add, *religion*; all this is safe, inalienably safe; the people have said it; the first page of their history will be forever luminous with the declaration.

I repeat it, *religion*, and her beautiful family of rights, are all here included. No matter whether the constitution names them or not, they are here, and their fortress is impregnable. Who does not know that they belong to “the pursuit of happiness?” Who does not feel that his concern in them is indefeasible; a subject of *necessary*, of *transcendental law*?

Was it not in their religious privileges chiefly, that the first settlers of America had suffered persecution in their native land? Was it not to save these from further wrong that they came hither? And did they not look to these, more than to all

other interests, when they set about the task of founding states and governments for the protection of their liberties? Indeed, is there a primary constitution to be found, the work of their hands, that does not in set terms proclaim concerning the rights of conscience and religion, that they are indistructible, immortal?

Rights of this pre-eminence, whether registered or not in verbal charters, possess the essential dignity and deserve the name of *constitutional things*. They are constitutional by their very nature, and need not the compliment of a written recognition. Popular speech, if I mistake not, has already so decided. It is part of the language of freedom thus to speak of them. We naturally disdain to acknowledge for them any rank but the highest; or even that, but on the ground of their own merits, without regard to phraseological credentials. When a petty or doubtful interest is invaded, we submit to think of statute remedies; or if the wrong we suffer have relation to points embraced in the political arrangements of the country, our recourse perhaps is to the meaning of the compact by which we have agreed to abide in those matters; but let a right of first-rate magnitude be brought in question; one of those rights that stand out in high relief, not on the pages of statute-books or verbal constitutions, but upon the broad façade of society; upon our characters, and relations as men; our

history, usages and habits, our avocations, circumstances and condition, as a people ; — upon facts and principles universally known and acknowledged among us ; and it will be seen that we appeal in such a case, neither to the records of legislation, nor yet to the conventional wisdom of our forefathers ; we wait not to inquire among books and documents, nor stir the dust of our libraries ; we look neither to dead nor living for direction, but invoke at once *the spirit of the fundamental code, the common law of our essential liberties*. Nor is it in the option of public men to refuse us their protection here if necessary. Rights which nature gave us, which we have never relinquished, which no statutory drivelling could make clearer, and which a hundred social compacts could neither strengthen nor exalt by ratification, as they are the heritage of freemen, so wherever the semblance of free government exists, they are entitled to its best guardianship and must have it ; nothing else can be safe where they are not.

## CHAPTER III.

### HISTORICAL VIEW OF THE SUBJECT.

#### SECTION I.—*The Principle.*

BUT not to press the argument further in so elementary a form, there is a rule of plain every-day law, which taken in connexion with certain historical facts, may answer all its purposes : I allude to the well settled doctrine of presumptive evidence, by which agreements (private or public can make no difference) are, in points otherwise doubtful, to be interpreted with reference to *the characters, circumstances and probable intent of the original parties to them.*

Thus, if two merchants in a particular branch of trade, should agree in general words to become partners in business, there could be no difficulty in determining what that business must be, and that the agreement must be so construed as to favour it. In like manner, if an association were



to be formed for common benefit among a number of persons engaged in manufacturing employments, no vagueness of terms, or deficiency of articles could prevent the law from deciding that the arrangement is to have a favourable application to the mechanical interests of all concerned, so far forth at least as may consist with the greatest good of the whole. And supposing the scheme of fellowship enlarged to a national compact, providing generally for the organization of a government, but entering into no details of policy ; if the population thus provided for were entirely agricultural, can it be doubted that the administration of their public affairs ought, and for good legal reasons, to be conducted in a spirit of assiduous kindness towards the prevailing husbandry of the people ? and if one-third of the people were merchants, would not their peculiar avocations and interests claim a ratable regard ? and if another third were artisans, must not the benefit of the same doctrine be extended to them ?

Now it will doubtless be admitted that there are lawful interests and pursuits *of a religious nature*. Of course, for securing and promoting these, there must be somewhere an obligation to see that they be not improperly interfered with ; and where but among the ruling powers, which alone are competent to fulfil an obligation of that kind ? Assuming therefore that of a given community, consisting,

we will suppose, of agriculturists, merchants and mechanics, onehalf, onethird, or even onetenth part, are truly religious, while a much greater portion would be thought so, and the whole mass, pious or not as individuals, insist generally that they are a christian people; is the absurdity to be tolerated for a moment, that because it does not happen to be so set down in the conventional bond of such a people, nothing is due from their rulers to the cause of their religion? What difference in the argument now and before? are religious interests less precious than others? less important to private or to public happiness? or do they want evidence? are they not of common notoriety? and have they not record evidence itself, beyond and above the pretensions of mere earthly things?

Here then is a convenient rule of judgement, which every man understands, and of which the use and necessity in common life are universally admitted. Why not apply it to the case in hand?

That the inhabitants of these states are now as exemplary as they once were in either the faith or practice of christianity, need not be asserted. The argument does not call for that. If they were christians when the institutions of the land were founded by them, it is enough. The rule in question goes precisely to this point, no further. Being a rule of reason no less than of law, it contemplates the very date of those institutions as afford-



ing the best evidence of their meaning, so far as circumstances can help to make it out. If we know what the sentiments of the people were then, and what the interests then most dear to them, we may pronounce, without the least danger of mistake, that those interests and sentiments cannot now be disregarded in the administration of the government, without a gross departure from the principles on which the government was originally constructed, and to which in legal fitness it ought forever to adhere.

Let us pause a little, therefore, upon some matters of fact, not uninteresting in themselves, and of which american politicians should methinks be neither ignorant nor unmindful.

## SECTION II.—*Settlement of the Country.*

Of all the colonial settlements made here from abroad, those of Georgia and the Carolinas were least creditable to the christian fame of the country. The circumstances attending them were comparatively unfavourable.

During the proprietary government in Georgia, considerable numbers of protestant emigrants of good character came thither from Scotland, Germany, and other parts of Europe; but with these were gradually mingled so many others of a different description, that it would be difficult to assign for the whole a religious character of any sort.

Georgia was too late for a healthful beginning. The times of pure religious colonization were gone by. The causes it depended on had ceased.

In the Carolinas, which were occupied much earlier, an attempt was made some five or six and twenty years before the English revolution, to establish a colony of hugonots, but it failed: and though the attempt was afterwards repeated and with better promise, it failed again, and most tragically, involving near a thousand of those fated exiles in utter extermination. Nor could their blood purchase for the grounds that drank it a further succession of like occupants. The blight of an English crown patent came instead. It was a patent to men indeed who made large professions of being actuated by what it styled "a laudable and pious zeal for the propagation of the gospel," but who did little or nothing all their lives long to make good their title to that praise. Population was poured in for many years from the best of sources — from puritan New-England; from presbyterian New-York; from Virginia, under the expulsive rigours of a prelatical establishment; from France, crushed by the yoke of a popish tyrant; and from Britain, struggling for religious as well as political life with a royal bigot of the same atrocious stamp: but this advantage was in great measure lost by the neglect and mismanagement of the proprietaries. It is true, they had Locke,

the philosopher at once and christian, to legislate for them ; true, that they were considerate enough to speak well of christianity in their colonial institutions ; true even, that a belief in the existence and government of God, and some sort of church membership besides, were required by their laws as prerequisites for admission to the grade of freemen of the province : yet words are not religion ; and in all but words they proved totally deficient — unless it should be stated as an exception, that after nearly half a century of inaction, an effort was at last made to introduce, not religion, but an establishment under that name, with the monster of a high-commission court to support it.

Who can wonder that the best interests of these colonies languished ? and who can help wondering, that their progress, after many desolate years, began at length to improve ? The good seed had not all perished. Some of it took root and grew. God remembered his servants in their extremity. And when the period arrived for putting seals to the great family compact, the three southernmost provinces, like the rest, not only claimed to be christian, but really were so.

Further north, the country was always such in a yet more signal degree.

There were two points on our shores, to which in the early times of American colonization, most of the fugitives from European cruelty directed

their course across the waters, and through which, as points at once of convergence and radiation, they gradually diffused themselves over the neighbouring territories. Virginia and New-England were the places of refuge first and chiefly resorted to by those whom the insolent tyrannies of the old world compelled to seek a new one ; and it was in great measure under the auspices and on the example of these primary settlements, that most of the others were subsequently formed.

Virginia, the firstborn of the whole family, and long the favourite of the parent kingdom, adopted from the first and with zeal, the form of church polity and worship which had been preferred by the laws of that kingdom under all its protestant monarchs ; and from various concurring causes, the Virginia settlement, after being once fairly begun, was rapidly filled up with inhabitants strongly attached to the rites and government of the church of England. As early as 1688, there were among them nearly fifty episcopal parishes, with as many glebes, church edifices and pastors. Episcopacy was established by law : attendance on parochial worship was enforced by penalties : even the sacramental services of the church were legally enjoined upon the people : everything wore the appearance of a very strict religious economy. In some respects there was vastly too much rigour. Laws were made to prohibit the preaching of dissenters ;

quakers were banished, and in case of their return, menaced with death; persons of every name coming into the colony, and *who had not been christians in the land they came from*, were exposed to worse than death, to slavery. Shocking extravagance! but showing by its very enormity how deep and strong, as well as dark and feculent, the tide of religious feeling ran among the people. If they were not wise christians, they were strenuous religionists at least.

Maryland, a lopped branch of Virginia, was no sooner cut off from that stem and put under separate culture, than it took a form and verdure peculiar to itself. The patentee of Maryland was a papist; and his declared object in asking for a grant of the province from the crown, was to provide an asylum for the unfortunates of his own faith. This object being openly favoured by the English government, the papists of that country flocked in great numbers to the restingplace secured for them here. Leonard Calvert, a brother of the patentee, came over with the first body of emigrants as their local governor. They erected a crucifix on the forest-shore of the Chesapeake where they landed; and as it was religion brought them hither, they hastened to profess, in the most solemn manner, before the ensign thus set up, that they took possession of the province “for their sa-



viour," as well as for "their sovereign lord the king."\*

This was beautiful. And whatever we may think of the creed of these people, and how different soever their practice here from what the history of other lands might have led us to look for, the truth is not to be concealed, and God forbid we should want the magnanimity to own it, that they proceeded as they began, beautifully. Strict in their principles, and yet liberal in their institutions, they set an example which in some respects the protestants of the age might have done well to follow. They considered their body-politic as comprising only "the christian inhabitants" of the colony; and it was only to "persons professing to believe in Jesus Christ," that they felt authorized to give an unqualified assurance of religious freedom: but on the other hand, while christianity was everything to their policy, sect was nothing. Toleration, as yet a stranger among the puritans of New-England, who could hardly bear with one another, much less with papists; toleration, to which the ruling zealots of Virginia had not yet learnt to open their hearts, holding papists and dissenting puritans in nearly equal abhorrence; toleration, which at that day had scarce an existence anywhere, and which no

\* Graham's United States.

part of protestant christendom held due to members of the Romish church; was freely, nobly tendered by the Romanists of Maryland to all the churches and religions under heaven. They carried on their government for more than half a century in this spirit, and indeed till their control in the colony was supplanted, and the worthless Andros thrust into the seat of the Calverts — as if to show off the mild purity of their administration by the contrasted vices of his, and thus to give to popish institutions, for once at least, a strange but unquestionable triumph of christian pre-eminence in the midst of a protestant country.

The occupancy of Delaware was commenced, in the time of Gustavus Adolphus, the lion of European protestantism, by a company of emigrants from his dominions. To these New-York added a considerable body of Dutch presbyterians; and when William Penn at length succeeded in wresting the territory from Lord Baltimore, whose patent covered it, a third stock came in, with quaker principles, to complete the trifold elements of the province. These elements were all pure, and mixed well, forming a compound happily suited to the ends of public order and stability.

Of the Pennsylvania colonists, little need be said. That they were strict professors of christianity, is known the world over. And as to their

celebrated founder and his works, fame has finished its account of them. In the estimation of the quaker patriarch, government derived neither its obligations nor powers from man. God was to him the beginning and the end of government, as of everything else; the ordaining and the final cause. To God therefore he was fain, as a legislator, to render an homage which some of his successors in the art of policy have grudged and withheld. He thought of government as “a part of religion itself;” \* a business calling for the exercise of habitual piety in those to whom either the making or execution of the laws was committed. He was for carrying religion into office, where modern statesmen are ashamed of it; and he held religious citizens to be alone fit for office. “Christians,” according to him, “should keep the helm and guide the vessel into port.” † Even the rank of freemen, connected as it was with the elective franchise, could not in his judgement be prudently conferred on other men; nor was he willing, with all his proverbial gentleness and liberality, to say in the elementary laws, that persons capable of atheistical sentiments should enjoy the liberty of the press, or of speech itself, to publish them among the people.

Pennsylvania was eminently a christian colony.

\* No Cross no Crown.

† *Ib.*



There, as in Maryland, though sects were tolerated, christianity was the religion of the laws. The very first act of the provincial statute-book recognised it as such. It entered indeed into the original project of the settlement; was one of the professed objects of the royal charter; and in the words of a Pennsylvania judge of the present day,\* “the very basis” of the policy of the patentee.

The vast majority of the people continued for a long time quakers. And the quakers of that day had not yet fallen into the “sere and yellow leaf” of their profession; they had all the energy of a young and growing sect; they were enthusiastic religionists; not inattentive possibly to the tithing of weeds, but yet alive in every thought and feeling to the infinitely weightier matters with which their faith was charged.

Other sectaries it is true, soon mingled in large numbers and even masses with these quaker colonists; by which means the aspect of their province was gradually altered and the character of the population became less and less peculiar in its more obvious features, a case common to most of the sister settlements; yet as late as the beginning of the last century, when Pennsylvania (including Delaware, then under the same government)

\* Duncan.

numbered nearly 40,000 inhabitants, the quakers were still largely predominant among them. The laws had been often changed in some important particulars; the rights and powers of the primary lawgiver had been strangely, perhaps unnaturally, interfered with; yet the political, and much more the moral and religious principles of the people (sect aside) had suffered very little innovation: as far as I have learnt, the same consistency of life and character, the same sound tone of general worth continued, down even to the end of colonial times, to attest the strength of those principles, and the solidity of the foundations on which they had been reared by the wisdom and piety of the first settlers — those venerable men, whom God had honoured as the founders of a christian state, and whose extraordinary virtues had won from the savages around them what neither bribes nor the sword could have commanded, peace, unbroken peace, while the glorious structure was going up.

The colonization of New-Jersey, which a little preceded that of Pennsylvania, was conducted for the most part under similar auspices; the province having passed early into quaker hands by purchase from the grantees of the duke of York. It was here that Penn first tried his skill at law-making. His policy was much the same as in his later and more celebrated experiment, though the

fruits of it did not ripen quite so well. The New-Jersey colonists were more various in origin and character, and as a whole, less uniform in the good order of their habits, than the Pennsylvania fathers. Many of them were derived from New York, more from New-England, and not a few, and those of the best, from Scotland. At the close of the seventeenth century, they numbered about 18,000 persons; of whom the bulk were quakers, presbyterians and baptists—a motley, but still a christian community, sound in the ingredients of their composition, respectable among the sister colonies, and incomparably superior to the beginnings of any foreign state that can be named.

New-York was a peculiar case. The first settlers here were Dutch. They were of the presbyterian order, holding themselves subject to the classis of Amsterdam, and maintaining the doctrines of the reformation in all republican simplicity and honesty. Never was a set of worthier men or truer christians. And it is remarkable, that in an age signalized by enthusiasm, when religion verged almost everywhere towards frenzy, this noiseless, peaceful, happy society kept, with very few exceptions, firm to the guidance of their reason, cultivating the growth and enjoying the fruits of piety, without excess. A praise too, which as it belonged to the parents, has come

down from generation to generation among the children, gilding with a mild and placid gleam the whole line of descent. "Justice," says the historian,\* (who wrote in the time of the colony, but near a century after Nichol's conquest) "justice obliges me to declare, that for loyalty to the present reigning family and a pure attachment to the protestant religion, the descendants of the Dutch planters are perhaps exceeded by none of his majesty's subjects."

The conquest brought changes along with it. Many of the true-hearted New-Belgians loved their old allegiance, their laws and religion too well to bow willingly to a monarch who was likely to have small regard for any thing but his own caprice. They therefore emigrated in considerable numbers to other colonies. But their places were soon filled by new settlers, some from Britain, multitudes from New-England and elsewhere; there were hugonots from France, Scotch and Dutch presbyterians, sectaries of all descriptions from various European countries, where rights of conscience were insecure. At the opening of the eighteenth century however, when the population amounted to perhaps 30,000, the great body of the people consisted still of presbyterians and independents;† and the prevailing popular character, imbued as it

\* Smith.

† Graham.

continued to be with the spirit of the first stock, was one of staid and exemplary christian habits.

### SECTION III. — *Subject Continued.*

Last, not least, New-England, originally one colony, afterwards several, presents itself for notice — of all the early wonders of American story the most interesting; of all the patterns of religious colonization known to the world, the most striking and illustrious.

The first settlers of this favoured region have been indifferently styled *brownists*, *independents*, and *puritans*.

The *brownists*, properly so called, were extravagant sectaries, and never very numerous; while the *independents* (a name to which that of *brownist* soon gave place) became speedily the most prominent and conspicuous of the several classes of British separatists or dissenters; being at the same time as much less fanatical than the leading zealots of of the brownist faction, as they were less cold and superficial than the dominant party in the established church. Under the more general name of *puritans*, the brownists and independents, with most presbyterians, and some episcopalians of the devouter sort, grouped promiscuously together: all indeed were called puritans, who held religion to be something more than a hierarchy and a ritual; for it was a name applied by way of ridicule



to every sort of men who loved the bible better than the establishment, the rights and liberties of conscience better than the church-proud tyranny that trampled on them.

The rapid increase of the puritan independents only exasperated the intolerance that strove to hunt them down; and a large company of them, headed by a clergyman of the name of Robinson, made good at length their escape from England to the Low Countries; whence again, in 1620, a portion of these, in order to provide for the religion of their posterity as well as their own, took their departure for America, and became the ever memorable Plymouth patriarchs of New-England. They were men suited to the enterprise. Every step they took left an impression of their character. The friends they were leaving in Holland, went with them to the place of embarkation, like the Ephesian elders pressing around the apostle of the gentiles for the last time; and there, in further imitation of the same example, they knelt down together on the ocean beach, and baring their heads beneath the vaulted temple of the universe, lifted their eyes and voices to the God of its altars. What a spectacle!

And when these parting devotions were paid, and the destined colony came forth upon the waters, there was no relapse in their religious feelings or exercises, no interval to the flow of

that deep-toned piety in which the adventure had begun, and which afforded the best, if not the only sure pledge, of its successful termination. It was throughout a voyage of faith, and hope, and indefatigable prayer. The same temple-vault was still over their heads; the same God still present at its altars: they called again and again upon his name: martyrs of self-expatriation for his name's sake, they clung with a life-grasp to the promise of his good word; never ceasing to remind him of their reliance on it; and that in this reliance they had "left all and followed him;" and that in this reliance they were ready to encounter the worst that might come—cold, want, desolation, the last enemy himself. Nor was their trust vain: he heard them: they arrived in safety; and after singing a hymn to his praise, and entering into covenant with him, and with each other, for the future fidelity of their lives in his service, they debarked upon the pilgrim's rock, and pitched their tents in the new world.

Such was their beginning. And the same spirit so manifest in it upheld them afterwards against all discouragements, and enabled them to go forward with an energy of perseverance and a rapidity of success never surpassed, probably never equalled. No other spirit could have done so much. The love of lucre would have been frozen by the climate or starved by the soil. The Plymouth com-

pany, for want of a less sordid motive, accomplished nothing. The love of fame would have shrunk from the ignoble miseries of savage warfare lowering in the prospect. Fame seeks a brighter field. The love of dominion, vigorous as it is, would have sickened at the distance of view in which, if anywhere, its triumphs were to be looked for. Power, like physical objects, may be too far off to seem of much significance. Nothing in short but a principle that was above the world, and to which time and circumstance, the usual coadjuvants of worldly action, were but antagonist excitements to the exertion necessary for overcoming the obstacles they presented — nothing less than such a principle could have borne the pilgrim fathers to the end of their task.

As it was, they went on their way rejoicing. The first party of emigrants was followed by others in the same spirit. “New-England must have remained unoccupied,” says Robertson, “if the same causes which occasioned the emigration of the brownists, had not continued to operate.” No other sort of men would answer; and things were so ordered, that just the kind of men required came in abundance to the work. By 1640, the colony was 20,000 strong; and in little more than thirty years after, 120,000 — nearly three times the population of Virginia at the same date: so much more effective is the favour of heaven than of earthly monarchies.



And though New-England did not long continue single in its political organization, and notwithstanding many feuds and troubles from time to time in the sectarian affairs of the church, yet the substantial unity of its religious tone and character was never seriously interrupted. As with the elder settlement of Massachusetts-Bay, so with those that issued from it, religion, in its piety at least, continued to hold the lead in all things, and without a moment's interval. The successive detachments that went forth to the south, west and north of Massachusetts, not only carried their religion along with them, but went distinctly and only as religionists. They were ecclesiastical swarms, leaving a more populous hive for others less crowded. And they moved under characteristic guidance. A clergyman of the name of Williams led a colony of his church friends to Rhode-Island: another clergyman named Hooker proceeded with a like attendance to Hartford in Connecticut; while a third, a Mr. Wheelwright, took a northerly course and settled with his band of followers in the borders of New-Hampshire and Maine. In every direction where the people went to occupy the land, they marched in regular christian order, led by officers of Jesus Christ, and with the pennon of his salvation floating over them, their sole rallying ensign. There was a great deal of party spirit in the origin of these

movements : religious whims and follies had much too large a concern in them : but religion itself, the great principle of the fear and love of God, was at the bottom of all, the abiding basis on which every public measure was founded, every legal and even political structure reared.

Look, for example, at the laws of the pilgrim colonies. For a considerable time after the arrival of the first settlers, they had all things in common, and as nearly as might be, on the New Testament model. As numbers and interests multiplied, their legal system became more extended ; but still without any relaxation of tone. In some respects the rigour of their policy, always stern enough, and often too much so, acquired a gradual increase of austerity as they went on. Their statute-book is perhaps the most singular cabinet of wonders upon earth. Nor is it the less remarkable for being all in one style : other statute-books are incongruous medleys ; here the general uniformity of character is unbroken, while yet the details of the work appear everywhere so novel both in form and conception, that the eye wanders from one item to another with ever renewed amazement ; so fresh and striking is the whole train of the evidence it abounds with to show, that the people of colonial New-England were not only different from other men, but so very different, that their own descendants of the pre-

sent day, however moral, however truly christian, scarce remind us of them ; and we can only arrive at a just estimate of what they were, by groping like antiquaries among their tombs and relics. Their whole polity was religious. Within a dozen years after their arrival in the country, they resolved by a sort of constitutional statute, that in order to be admitted to a share in the government, or to any grade of magistracy, or to the jury-box, or even to the name of a freeman, it was indispensable that a man should not only be religious, but should give proof of this by a regular church profession. And to the sentiment thus enthroned in the elementary code, every part and tittle of their laws paid homage.

Even the internal affairs of the church were watched over by the legislature with the keenest vigilance. The records of the first fifty or eighty years are full of this. The forming of ecclesiastical societies and their economy when formed ; the exemption of their liberties and discipline from the interference of secular power ; the privileges of their public assemblies and worship ; the peace and dignity of their proceedings ; the maintenance of “an able and faithful ministry” among them ; and the duty of all men to wait upon the exercise of that ministry “on the Lord’s day, and upon such fastdays and days of thanksgiving as were to be generally observed by appointment of antho-

riety”\*—all these were topics of continual and anxious legislation.

Nor were the general morals of the community looked after with a less attentive concern. Morality, at that time of day, was practical religion ; something appertaining not only to social order, but to the honour of the divine government. Penalties of the heaviest kind, most of them capital, were denounced against idolatry, heresy, blasphemy, false witness, disobedience to parents, conjugal infidelity, sabbath-breaking — offences scarce intelligible but under a christian dispensation, and to minds imbued with christian notions and principles. Laws of this extreme severity were made and multiplied almost before the settlement was a score of years old ; certainly before the evils they pointed at could be much known as things of actual occurrence : and it is difficult to account for such a precocious development of censorial rigour, without ascribing it to an over-scrupulous zeal for the letter of the Mosaic code ; a code to which we find them frequently appealing by express references on the page and in the body of their statutes, citing books, chapters and verses in numerical array, to show the ground of their proceedings.

The very language of their laws was religious, not to say biblical. In an act for instance, passed in 1646, for repressing blasphemy, as well

\* Colonial Statutes.

among the indians of their jurisdiction as elsewhere, they declare, that “albeit faith be not wrought by the sword, but by the word; and therefore such pagan indians as have submitted themselves to our government, though we would not neglect due helps to bring them on to grace and to the means of it, yet we compel them not to the christian faith, nor to the professsion of it, either by force of arms or by penal laws; nevertheless, seeing the blaspheming the true God cannot be excused by any ignorance or infirmity of human nature, the eternal power and godhead being known by the light of nature and the creation of the world; and common reason requiring every state and society of men to be more careful of preventing the dishonour and contempt of the most high God (in whom we all consist) than of any mortal princes or magistrates; it is therefore ordered and decreed, for the honour of the eternal God, whom only we worship and serve, that no person within this jurisdiction, whether christian or pagan, shall wittingly and willingly presume to blaspheme his holy name, either by wilful or obstinate denying of the true God, his creation or government of the world; or shall curse God, or reproach the holy religion of God, as if it were but a public device to keep ignorant men in awe; nor shall utter any other eminent kind of blasphemy of the like nature or degree:



if any person or persons whatever within our jurisdiction shall break this law, they shall be put to death." Such was the Jewish precedent, and they copied it.

Even vices and levities, such as now are little thought of, were pursued with unsparing indignation; profane cursing and swearing, lasciviousness, gambling, drunkenness, "dancing in ordinaries," and the like, having punishments allotted them in the spirit rather of religious chastisement than of civil correction.

Everything, in short, was done under the influence of supposed religious duty, and for religion's sake.

And what if it be true, as some appear to find pleasure in asserting, that the puritan lawgivers, by pushing matters too far, were guilty of excesses and abuses? Strong principles tend everywhere to this. Allowing the eastern patriarchs to have been over-zealous in their religion, the fact that they were religious men, and prized the privileges of that character, is not the less apparent. That they sometimes judged and acted wrong; that they were intolerant of what they thought it their duty to suppress; that they abhorred and expelled heretics, were superstitious about witches, and often betrayed a fiery impatience of schism among themselves; all this, though it may charge their escutcheon with some actual stains, impeaches not

their faith or sincerity, but rather fortifies the credit of both. Men do not become superstitious by trick, nor cruel for cruelty's sake. Infirmity is the common lot. Apostles brought no cloud over their commissions by confessing that they were of like passions with other men. When the religious principle is well informed and directed, its operation is at once potent and benign; but if led astray by erroneous convictions, its potency finds a new train of developement: the principle remains the same both in nature and energy, while its effects are only those of perverted action.

Let not the unconscious misapprehensions of duty which at times betray the best of men into lamentable errors, overlay the proofs by which their general well-doing is attested.

If the New-Englanders believed for a while in modern facts of witchcraft, it was their error, not their crime. Nor was the error theirs alone, it was a thing of the age, it existed everywhere; there was not perhaps a penal code in christendom untinged with it. Trials and condemnations for witchcraft had actually and recently taken place, before judges of undoubted sanctity, unquestioned wisdom. Britain, with all her improvements, had witnessed this. Even the simple-hearted Dutch christians of New-York had gone ahead of the pilgrims in the same infatuation, holding a solemn assize of witchcraft for several



days together in their metropolis, a spectacle for earth and heaven.

And then, the persecution of the eastern quakers, wherein was it worse than the same kind of injustice dealt out by episcopal Virginia to quakers there? or wherein was the common error of the east and south in this respect more grievous, more obnoxious to reproach, than the treatment received by the papists of that period at the hands of nearly the whole protestant world? a treatment too, bad as it was, yet not half so atrocious as the whole papal world (Maryland excepted) had long been in the habit of inflicting on the protestants that fell under their power. Where all are guilty, who shall sit in judgement on a part?

At any rate, the christians of colonial New-England, in the very excesses and abuses which, like other vehement religionists, they sometimes committed, believed that they were doing God service. Who can doubt it? So that be the story of their superstition and intolerance what it may in point of verity, these things were but the perversions of a great and noble principle; exceptions, and trivial ones too, compared with the importance of the rule they violated, and which at the same time that they dishonoured it, they forcibly illustrated, showing it in greater strength, by disclosing the depth of its foundations.

SECTION III.—*Facts Reviewed, with Reference to their Causes, and the Conclusion to be drawn from them.*

Such then was the commencement of our history ; and the causes which were chiefly active in it were as peculiar as the work achieved by them.

We have heard of lands colonized by paupers, who had no alternative but to emigrate or starve. Other lands have been seized upon in the way of covetous adventure, for the mines and treasures expected to be found in them. Some have been thought worth occupying as commercial stations, or for other ends of trade ; and some, as Botany-Bays for the cast-off population of overgrown states, the vagabonds and felons snatched by banishment from the dungeon and the gallows. But which of these considerations led to the peopling of America ? Individuals, of course, were swayed by various motives : there were cases even of profligates and criminals being sent here by the English government to get rid of them, or by colonial proprietaries, to swell the numerical masses of their jurisdictions : but what was the *general course of things* ? and what *the leading influences* that controlled it ?

Thanks to the giver of all good, we are not more favourably distinguished from other governments by our present political economy, than we were in our infancy from their historical begin-

nings, by the character and views of our settlers. It was an era of the world's affairs, such as had neither preceded nor is likely to follow it. The protestant reformation had been just long enough in progress to have brought the minds of the nations to a sort of moral crisis. In the zeal of new opinions to which men had everywhere been roused from the stupor of past ages, they naturally became more and more sensible of the value of their religious rights; while on the other hand, the governments of Europe, as yet unrenovated by the spirit of the times, arrayed themselves in deadly opposition to that spirit, resolved to crush, if possible, a faith that appeared to them dangerous alike to despotism in the state as in the church: and it was in this critical conjuncture, when the prevailing enthusiasm of religious excitement was assailed and frenzied by persecution, that the western hemisphere was happily thought of by the christians of Europe, as a place of last refuge, a hoped-for rest beyond the seas, where God would finally receive and cherish those who were willing to serve him. The settlement of America by such men and for such reasons, was a thing without parallel; nothing could be more opposite to the usual colonizing process. Rome, the queen of empires, was at first but an imposthume, drawn to a head by circumstances. England herself is come she knows not of what parentage, for she

was begotten out of wedlock, and by a commerce of savages. The fathers of America are known, and worth knowing. They were the best men that European communities could furnish, or European cruelty drive away; the purest runnings of the winepress of Europe under the tread of its tyrants.

If Georgia and the Carolinas do not altogether verify this description, an exception of three provinces out of thirteen, leaves it still substantially and generally true.

The case of Virginia may also be admitted to have been singular, considered as a colony agreeing in its religious forms with the dominant party in the mother country, and for a time enjoying their patronage. And undoubtedly, so far as the progress of the colony was advanced by court-favour, the advantage may not have been so apparent in the quality of the settlers thus furnished as in some other possible respects.

But then it must be borne in mind, that during the long parliament and the protectorate, episcopalians in England had to drink of the same cup which at other times their leaders administered to dissenters. Persecuted in turn by the political power, they fled before it, bringing over large and valuable additions to the kindred society here.

There was another influence, which though quite different in character, must have drawn with con-

siderable force in the same direction. The courts of the latter Stuarts were exceedingly corrupt, and the excesses of a bigoted church despotism under their countenance (for even the last James, with all his preference for the establishment of Rome, liked that of England well enough as a machine for trampling on the puritans) must have filled the minds of the more pious episcopalians with sentiments scarcely leaving them an option but to flee, for conscience' sake, beyond the sight of such abominations. The articles of their church were on paper calvinistic. To adhere to them strictly was puritanism. Puritans we know there were in plenty within the precincts of that church : most of the English clergy were calvinistic in the time of Laud : and when the spectacle was exhibited, of a British monarch with his hierarchy around him, audacious enough, not only to employ stocks, jails, and gibbets, for repressing the growth of un-mitred christianity, but swelling the apparatus of persecution by the obtruded levities and vices of their own example, setting their perverted manners and morals in ostentatious contrast with the austerities of uncourtly virtue, publishing orders of profane revelry and pastime for the christian sabbath itself, and with the avowed design of desecrating it to spite the puritans ; when such things were possible, methinks it was time for good men, as well in the establishment as out of it, to remember



the "cities of the plain," and to look from old England to young Virginia, from the palace to the desert, with desire.

The early population of Delaware and New-Jersey was so variously derived, and so much of it from the eastern provinces, that excepting the quaker inhabitants, who classed with those of Pennsylvania, there is little in the history of these settlers to call for special observation as to the influences under which they were brought together. Even New-York presents no very peculiar features in this point of view.

But with the remaining provinces the case was otherwise. Maryland was the asylum of persecuted English papists ; Pennsylvania, of English quakers under like oppression ; while Massachusetts, Rhode-Island, Connecticut, and New-Hampshire, were successively filled with puritan refugees of the same national stock, and who in like manner had given up their native land, the home of their fathers, to save their religion, which was still dearer to them. Ten, in short, of the original thirteen states, were religiously colonized ; and seven, by sectaries of the utmost piety and zeal, such as only puritan times could have produced. And it must be added, that these seven provinces comprised, at the beginning of the eighteenth century, *more than five sixth parts of the entire population of the country.* Nor was this relative state of



things materially altered down to the federal period itself.

It is cheering to review such facts. They are facts of great peculiarity ; and why not of glorious indication too, for the yet unrevealed destinies of a land whose virgin annals they so strongly mark ? Whatever may have happened more recently, there was a time when christian piety, instead of being under public reproach, was popular, was general, was nearly universal in the country ; respected of all men, and by most regarded as the best of earthly possessions. We are descended, God be thanked, from christian parents. Religion was the fountainhead of our history. It was not till men were goaded by intolerance to the point of preferring exile and a wilderness with religious freedom, to the pleasures of the most improved and loved society without it, that our colonial settlements were formed. Our fathers came hither as christians, as men devoted to christianity above all things. It was the most conspicuous, brightest aspect of their characters. They came to build temples in the desert, and to fill them with prostrate worshippers.

And what they came for they accomplished. Their lives here were like the principles they brought with them ; pure, ardent, full of the unction of their calling. They had some follies, but for every one of these, a hundred virtues.

They were not perfect men, but men sincerely and devoutly earnest in pressing toward the mark of perfection, and who counted everything else as trash, compared with the right, the duty, *the necessity*, of serving their maker, and holding fast the integrity of those christian liberties which were to them the one thing needful upon earth.

Their tenets were in some respects greatly diversified; how could it be otherwise? The persecutions they had fled from were not for the most part levelled against this or that denomination of christians in particular, but against all manner of dissenters from certain shibboleth creeds of state—all who could not join in the prescribed kneeworship of some two or more imperial models of church-formalism. In France, and some other countries, the idol they were ordered to bow to was the papacy; in England it was the protestant episcopacy of a venal court—save only, that during the brief hour of the commonwealth, the pedestal of this dagon was usurped for a time by the no less hard and much ruder statuary of the roundhead chisel. Everywhere however, the causes of the emigration that took place, were of a nature to secure two points at least in the character of the emigrating mass: diversity of sect was one, because in all sects there were those who would sooner become exiles than apostates: the other, was a very high degree of

religious faith and ardour ; for nothing less was likely to hold out to an extremity like that of exile, against the united corruption and power of political church-establishments, armed as they were with both the lure and the lash, the bribes and curses of malignant empire. It was a tyranny over the consciences of men, extending to every variety of dissenting believers, but bearing with severest pressure on those whose consciences were tenderest and purest ; putting thus to flight and self-banishment, for the good of cisatlantic regions, the soundest and most precious materials of the bodypolitic. Happy the land peopled from such a source ! Happy and honoured the generations after, that can trace to such a source the streams of at once their physical and moral life.

If then the ancestors we boast of were of various sects, enough for us that they were all religious. They were independents, presbyterians, episcopalians, baptists, papists, quakers — but all of christian profession, and most of them of sterling christian worth. To be an atheist or an infidel, or even to be neutral in religious matters, was alike rare and discreditable among them ; a singularity that might occur in individuals, but could have no countenance from society.

And now the question is, whether a character so marked and prominent as this of their religion, was likely to be honoured in their public institu-

tions, or to be contradicted and disgraced by them ; whether that which is known to have been of chief estimation in the paternal mind, and the most enriching quality of the paternal estate, is likely to have been cut off from the children's portion and thrown ruthlessly away, at the grave moment and amid the yearning affections of a last will in their favour. What is the fair presumption ? Can a mere omission to declare the contrary be tortured into an occasion of doubt ? As well might a bond of present debt be held to bear no interest because none is expressed. As well might our bible-societies be deemed enemies of the bible, for sending it forth without a commentary to explain it. Men are wont to express but half the intended import of their doings ; leaving the rest to be gathered from facts and circumstances of the place and time. Debtors are such according to the local laws. Bible-distributors forbear their annotations, not from unconcern about results, but from a sense of mutual charity among co-operating sects, and in the hope of a greater good upon the whole. And if our pious ancestors have failed to tell us in set phrase, that they wished us to be christians like themselves, and their works to receive a christian interpretation at our hands, are we to shut our ears to the " expressive silence " of their memories, and fill the blanks of the political charters they have left

us, with *atheism*? Is it reasonable to do so? is it jurisprudential?

Suppose it had been moved in the convention of 1787, to denounce christianity outright; how would such a motion have been met? What would the puritan states have said to it? What would the least religious of the states have said? Was there one among them capable of being thus insulted without a thrill of abhorrence?

On this head, as on others, the federal constitution was a compromise. Religion could not well be introduced into it for any purpose of positive regulation. There was no choice but to tolerate all christian denominations and to forbear entering into the particular views of any. Religion was itself likely to fare best in this way. Men who loved it better than we do nowadays, felt bound in prudence to leave it at once unaided and unencumbered by constitutional provisions, save one or two of a negative character. And they acted thus, not that it might be trodden under foot, the pearl among swine; but to the very end, of its greater ultimate prevalence, its more sure and lasting sway among the people.



## CHAPTER IV.

### PRIMARY STATE CONSTITUTIONS.

BUT let us proceed a step further. There are facts deserving notice in what may be called the constitutional period of our history; the birthtime of those republican forms of polity we still so anxiously adhere to, but of whose religious bearings the world it seems is lately fallen into doubt. If it be not enough to know what the founders of the nation *were*, there may be use in giving some attention to what they *did*, in cases not within the federal compromise, and less embarrassed by diversity of views.

It was natural that a constitution for the whole country should be less minutely faithful to the opinions and feelings of individuals, or even classes of men, than those of the particular states might be. The larger the territory and population, and the more various the interests that pervade them, the more general must be the structure of the



political order. Society cannot be classified into great masses but upon the principle of all other generalizations, that of abstracting from what is special to the parts.

And practically, the parts lose nothing by this process. Their peculiarities are not the less to be adverted to when measures of administration are to be applied, or rules of policy settled. For all the purposes of construction, details must still be looked at. National generalities can receive their just interpretation in no other way. And as, in a large view, the federal and state constitutions form together but one system, that for national, these for local ends; the propriety of deriving from the several ingredients of the system hints and analogies for judging of the whole in points otherwise doubtful, is self-evident. So that admitting the general government to be wanting in express marks of christian character, the governments of the particular states, the thirteen elder states especially, the original sisterhood of the union, may be referred to for supplying that defect. Acts of one and the same people, done at about the same period, and upon like subject matters, differing only or chiefly in mere breadth of design, are reciprocal evidence for explaining each other—good in a court of justice, good everywhere.

If then it can be shown from the constitutional records of a few short years after the declaration

of our independence, that all or nearly all the thirteen primary states, by which the federal government was so soon afterwards and so cordially established, were then christian states, it will be hard methinks to turn them into infidels and atheists by combination. Let us see how the matter stands.

One of those states, and that a great and honoured one, has left us indeed no record to the purpose. That Virginia was in truth a christian state, will not be questioned; but her philosophers have not allowed the fact to appear in her political framework.

It must also be confessed that the constitutions of Connecticut and Rhode-Island are scarcely in point, as having been mere crown charters when the union took place. The religion of the inhabitants is well known: they were puritans: nor was the subject overlooked in the constitutional records such as they were: but I pass them by.

Of the remaining states, some have declared themselves more pointedly, some less so.

New-York is among the least explicit. Yet the people of this state, by their constitution of 1777, did two important things—they guarded strongly the rights of conscience and religious worship; and they made public offices of a worldly nature inaccessible to the clergy, on the express ground, that the clergy were “by their profession dedicated

to the service of God and the cure of souls," and "*ought not to be diverted from the great duties of their function.*"

The New-Jersey constitution of 1776, after providing, like that of New-York, that no citizen should ever be deprived of what it termed "the inestimable privilege of worshipping almighty God in a manner agreeable to the dictates of his own conscience," declared that no "*protestant* inhabitant" should be denied the enjoyment of any civil right on account of his religious principles, and that "all persons *professing a belief in the faith of any protestant sect*, and who should demean themselves peaceably under the government, should be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and should fully and freely enjoy every privilege and immunity enjoyed by others, their fellow-citizens." From which ill-drawn passage it may at least be gathered, that happen what might to other men, the professors of *protestant christianity* were to be favoured by the government.

In the state of New-Hampshire the point was not left to inference. Assuming "that every individual had a natural and inalienable right to worship God according to the dictates of his conscience and reason ;" and further, "*that morality and piety, rightly grounded on evangelical principles, would give the best and greatest security to government, and would*

lay in the hearts of men the strongest obligation to due subjection :” and again, “that the knowledge of these was most likely to be propagated by *the institution of the public worship of the deity, and public instruction in morality and religion :*” therefore, “to promote these important purposes,” the people of that state, by their constitution of 1792 (the act of 1776 was one of mere organization) empowered the legislature to take measures for having provision made by the minor jurisdictions “*for the support and maintenance of public protestant teachers of piety, religion, and morality.*” Such was the voice of New-Hampshire.

Massachusetts went still further, the constitution of 1780 holding this language : “that as the happiness of a people, and the good order and preservation of civil government, *essentially depend upon piety, religion and morality ;* and as these cannot be generally diffused through a community *but by the institution of the public worship of God, and of public instruction in piety, religion, and morality :* therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and *the legislature shall from time to time authorize and require* the several towns, parishes, precincts, and other bodies politic or religious societies, *to make suitable provision at*

*their own expense for the institution of the public worship of God and for the support and maintenance of public protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily: and the people of this commonwealth have also a right to, and do invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers as aforesaid at stated times and seasons, if there be any on whose instructions they can conscientiously attend:”—and further, that “because a frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality,” (christian virtues all) “are absolutely necessary to preserve the advantage of liberty, and to maintain a free government, the people ought consequently to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of all laws necessary for the good administration of the commonwealth:”—and finally, that every person “chosen governor, lieutenant governor, senator, or representative, and accepting the trust,” shall subscribe a solemn profession “that he believes the christian religion, and has a firm persuasion of its truth.” To such*



lengths did their dread of being governed by infidels carry them.

Nor was the case a rare one. The constitution of Maryland, made in the first year of our independence, after empowering the legislature "*to lay a general tax for the support of the christian religion;*" and declaring "that all persons *professing the christian religion*, were equally entitled to protection in their religious liberty,"—a boon not promised to other men; wound up with a conclusion against all tests except those specially reserved, and then reserving these three, namely, an oath of office, an oath of allegiance, "*and a declaration of a belief in the christian religion.*"

By the Pennsylvania constitution of the same memorable year, it was provided, not only that the legislature should consist of "persons most noted for wisdom and virtue" in the commonwealth, but that to these known qualities every member should add this solemn declaration: "*I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked; and I do acknowledge the scriptures of the old and new testament to be given by divine inspiration.*"

The constitution of Delaware too, another work of the jubilee date, premising "that all men have a natural and inalienable right to worship God according to the dictates of their own consciences and understandings;" and declaring specially,



“that all persons *professing the christian religion*, ought forever to enjoy equal rights and privileges” in the state ; proceeded to ordain, that every citizen “who should be chosen a member of either house” of the legislature, or appointed to any other office, should be required to subscribe as follows, viz: “*I do profess faith in God the father, and in Jesus Christ his only son, and the Holy Ghost, one God, blessed forevermore ; and I do acknowledge the holy scriptures of the old and new testament to be given by divine inspiration.*”

The people of North-Carolina, by their constitution dating concurrently with the three last, went also straight to the mark ; declaring expressly, “*that no person who should deny the being of God, or the truth of the protestant religion, or the divine authority of either the old or new testaments, or who should hold religious principles incompatible with the freedom and safety of the state, should be capable of holding any office or place of trust in the civil government of the state.*”

By the constitution of South-Carolina, made in 1778, it was ordained, that at every meeting of the legislature “they should choose by ballot from among themselves, or from the people at large, a governor and commander in chief, a lieutenant governor and privy council, *all of the protestant religion ;*” — “that no person should be eligible to a seat in the senate, *unless he be of the pro-*

*testant religion ;*” — “ that no person should be eligible to sit in the house of representatives, *unless he be of the protestant religion ;*” — in fine, “ *that the christian protestant religion be deemed, and was thereby constituted and declared to be, the established religion of the state.*”

Nor is this all. Provision was made for the incorporation, maintenance and government of such “ societies of *christian protestants*, either already formed or thereafter to be formed,” as might choose to avail themselves of the especial favour of the laws ; subject however to the condition, that every such society should first “ agree to and subscribe in a book the five following articles :

“ *First, that there is one eternal God, and a future state of rewards and punishments ;*

“ *Second, that God is publicly to be worshipped ;*

“ *Third, that the christian religion is the true religion ;*

“ *Fourth, that the holy scriptures of the old and new testament are of divine inspiration, and are the rule of faith and practice ;*

“ *Fifth, that it is lawful, and the duty of every man, being thereunto called by those that govern, to bear witness to the truth.*”

Nor even yet satisfied, the South-Carolina fathers went on to declare, “ *that to give the state sufficient security for the discharge of the pastoral office, no person should officiate as a minister of*

any established church, who should not have been chosen by a majority of the society to which he should minister, *nor until the minister chosen should have made and subscribed the following declaration, over and above the aforesaid five articles, viz: that he was determined by God's grace, out of the holy scriptures to instruct the people committed to his charge, and to teach nothing as required of necessity to eternal salvation, but that which he should be persuaded might be concluded and proved from the scriptures; — that he would use both public and private admonitions, as well to the sick as to the whole within his cure, as need should require and occasion be given; — that he would be diligent in prayers and in reading of the holy scriptures, and in such studies as help to the knowledge of the same; — that he would be diligent to frame and fashion his own self and his family according to the doctrine of Christ, and to make both himself and them, as much as in him lay, wholesome examples and patterns of the flock of Christ; — that he would maintain and set forwards, as much as he could, quietness, peace and love among all people, and especially among those committed to his charge.*"

Thus spoke Carolina, in the dawn and freshness of the country's liberty, before political sophisters had slandered our religion, or political fashion made us ashamed of it.

And Georgia, though in fewer words, was of the same mind. "Every officer of the state," said the

Georgia constitution of 1777, "shall be liable to be called to account by the house of assembly;" and of all the members of that house of ultimate control it was added, "*they shall be of the protestant religion.*"

Such were the constitutions originally framed for the particular states.

And now let any man conversant with the rules of legal evidence, or who knows the uses of his own reason, judge for himself concerning the founders of these early state establishments, whether it is probable, that in constructing another work of the same kind and of corresponding date, intended for the same people too, but in a breadth of application not favourable to detail, such men could have been all at once divested of the habits and principles of their lives, and from legislating for every part of the country as christians, were capable of turning traitors to christianity when they legislated for the whole.

Let Virginia stand aside. Connecticut and Rhode-Island may also be dispensed with for the present. We have still ten constitutions left to speak for us; and what a testimony do they give. Even New-York, besides providing for religious liberty in general, attests the importance of the gospel ministry, and by confining that ministry to its appointed sphere, makes one of the soundest regulations possible for advancing its great end. New-

Jersey, another competent witness, thinks the piety of good men entitled to a perpetual bond of favour ; while New-Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, North-Carolina, South-Carolina and Georgia, *eight of the unexceptionable ten*, concur in making christianity an essential part of their systems ; some, by providing for its support, and all save one, by making the profession of it an indispensable condition of access to the public service. By their rule, no state is safe but in christian hands.

And these are the communities by and for which the great pact of the nation was established—a union under which they fondly hoped their local governments were to harmonize forever ; but which some modern constructionists would have us take for a league of impiety, such as none but heathen could have devised or acquiesced in. Men who shrank from giving up comparatively small interests to infidel management, are represented as practical infidels themselves, nay as encouragers and pimps of infidelity, in the very act by which, more than by all others, they put at once their own and their children's welfare beyond their immediate control.

But the calumny is too gross. Consistent with themselves, the people of 1787 meant by the federal arrangement nothing but a new and larger organization of government on principles already familiar to the country. The state governments



were not broad enough for national purposes, and the old confederation was deficient in central power : it was just to remedy these two defects, not of principle, but of distributive adjustment, that the public mind addressed itself : innovation, to any other end, was never thought of ; least of all, in reference to religion, a thing utterly apart from the whole design. So that admitting the constitution framed on that occasion does not in terms proclaim itself a christian document, what then ? Does it proclaim itself unchristian ? for if it is merely silent in the matter, law and reason both tell us that its religious character is to be looked for by interpretation, among the people that fashioned it ; a people, christian by profession and by genealogy ; what is more, by deeds of fundamental legislation that cannot deceive.



## CHAPTER V.

### PRESENT CHARACTER OF THE STATE SYSTEMS.

AND now, let me ask, does the argument end here? Can it be brought no further down? Are we not in some fair sense of terms, a christian people still?

There is encouragement in knowing that we still pretend to be so. However men may think or speak concerning personal religion, christianity is at least considered reputable as a general attribute of the nation. Our pride, if nothing else, would claim it for the public fame.

Nor is the pretension groundless, as a glance at the subsisting legal economy of the states will show.

Even the constitutional law of the state governments, though many changes have been made in it, continues in the main favourable. Of the states that once possessed establishments of religion,

most are now without them; for the reason probably that the tendency of such establishments has of late become better understood, as prejudicial to religion itself, no less than to other interests. Two of the states (Maryland and North-Carolina) remain steadfast, I believe, to this hour, in holding christians alone eligible to public trusts; and there is scarce an instance among them where christianity has not more or less of constitutional protection. The advantages of public worship and of general piety are widely recognised and sought to be preserved in this manner.

In one particular deserving special notice, all our constitutions are exactly alike in their religious tenor — they all guarantee *the rights of conscience*.

But to whom? Will it be said that because the guaranty is general in its terms, the liberty secured by it is not strictly religious, but belongs to everybody? to christians indeed, but at the same time and in equal measure, to the unbeliever and the licentious? Is the benefit of such a guaranty to be claimed for men having no imaginable interest in its subject matter? General as the terms are, there must be one implied reserve. Persons possessing no rights of the description which the guaranty applies to; none that can be the better or the worse, the more or less secure, for having or wanting the protection it offers; in a word, no

rights of conscience *practically understood* ; come not, I should think, within its scope, and can with no propriety be numbered among its objects.

Conscience respects essentially the divine government. Rights or liberties of conscience, have no meaning but in this relation. They are religious things ; and it is only to religious beings they can be said to appertain. Men of the world may have honour, may have policy ; but these are not conscientious principles, nor can entitle any one to the securities that have been provided, no matter how broadly, for the freedom of conscientious action. Something more is requisite. There must be some regard for another law than that of worldly interest or human opinion ; a law that goes to the heart ; that tries the reins of the inner man, while it points to issues larger than earthly destinies, more lasting than time. Such a law there is, and conscience is the principle that has to do with it. Conscience is a peculiar principle. To protect its rights is to protect the use of them : they are practical rights : and what I pray does the use of them consist in, if not in active religion ? worshipping God, doing what he commands, and forwarding the design of his kingdom ? To enjoy liberty of conscience is to believe, towards him, as we have evidence, and to practice freely as we believe. Is this a boon for unbelievers ? Unbelief is not to be disturbed in its retirement, its

private haunts ; but having no religious functions to discharge, no worship to render, no behests of heaven to heed, no kindly purposes of heaven's empire to subserve — in short, no conscience, and no rights of conscience to be cared for by the laws ; what legal passport can it claim for appearing abroad, or ever going forth of its den ? Why should such a privilege be promised it ? Why should unbelief be anticipated by the organic laws with fostering provisions ? Has it a character deserving this ? is it known to the world as a benefactor ? Why place bad principles on a footing with the best ? Is liberty of conscience to be confounded with the license that acts against conscience ? Do we hold our religious freedom in common with knaves and profligates ? and on the same warrant too ? Can they challenge the constitutions of the land as well as we ? Absurd. The constitutions of the land, so far as religion or conscience is concerned, are made for us, not them ; in furtherance of our liberties, not theirs. They are christian constitutions.

And with these elements, still found in the essential structure of the state governments, the municipal order of the country is everywhere in full accordance.

Take for instance the statute regulations that are universal among us, for enforcing a due observance of *the christian sabbath*. Whence come these

regulations? From the light of nature? from the arts of civilization? from the discoveries of science? Has human wisdom invented them? Has philosophy found out the glorious secret of a day in seven to the Lord? Who does not see, that our law-makers have taken their lesson here from revelation? and whether consciously or not, have legislated for us distinctly as a christian people?

Take another instance. There is not a state perhaps in the union—I am sure there are not many, for I have searched far without finding one—in which penalties are not established by law against *profane swearing*. And again I ask, why is this, if not because it is found written, “thou shalt not take the name of the Lord thy God in vain?” What is it to swear profanely? Is it to insult the deities of Hindostan or of ancient Rome? to speak lightly of Vishnoo or of Jupiter-tonans? Or is it rather, to do irreverence to the christian’s God? Is there any form of the offence but this, that could possibly attract the notice of the laws in question? and if none, then what are those laws but solemn recognitions of the same God as the God of the land, and of the volume that reveals him, as the acknowledged text book of the principles that govern it?

Illustrations of like bearing might be multiplied from various statutory topics; such as *the religious peace of society, the decorums that relate to public*



*worship, church incorporations, the title and disposal of church property, the clerical office, the marriage contract and relation, divorce, charities public and private,* and several others ; all of which are treated of in our statute-books in a manner to which heathen institutions furnish no parallel or resemblance, and which the bible alone can explain or account for.

Nor are our statutes to be regarded as showing merely what have happened to be the sentiments of a few law-making agents of the people ; for the people themselves are constantly succeeding each other in the functions of that agency, to an extent warranting the assertion, that where the statute-book continues of one uniform tenor for a course of years on any given subject, it may pass for a pretty sure index of the prevailing popular sense of the country on that subject.

But admitting this branch of the law were only evidence at second hand, there is one assuredly, and of much greater reach and importance, that is not so. The common-law, which like common-sense, derives its name from the universality of its nature and prevalence, is emphatically the law of the people : theirs by origin, for they make it ; by administration, for they apply it largely ; by extent of influence, for they are chiefly under its control : they carry it about with them unconsciously : it waits like an invisible spirit on their secret thoughts : the monitor of the breast speaks



to them in its language : not only as jurors and civil arbitrators, but as judges of fair dealing ; as censors of fraud and villany ; as lovers and promoters of peace, order, and the general welfare ; as good citizens, in short, they are ever executing its mandates and upholding its sway. Statutes are further off from the people : they are formal things — intelligible, it may be, though not always by intuition ; suited well enough for special ends, but seldom rising to the dignity or fulfilling the use of general principles. Statutes are to the common-law, what art is to instinct ; or what the contrivances of art are, to the wonders of animal mechanics.

Now, that this popular kind of law, this law of public feeling and opinion, brought as it was from England by our forefathers, and esteemed by them as second only to their religion in value, has been handed down to us and is in force in every part of the United States, no man is ignorant to whom our legal literature is not all a dead letter ; and the fact is equally true and should be equally well known, that of this admirable portion of the civil economy, *christianity is a part* ; not an object of interest merely, but a *constituent part*.

Considered as English, the proposition will readily be assented to, for in England one of the constitutional estates of the kingdom is ecclesiastical : the king himself partakes of that character ;

the lords have a large mixture of it ; and among the commons there is not a class more anxiously taken care of by the laws than the professed ministers of the church.

But is the doctrine applicable here ? This is the point. Some may doubt it. Mr. Jefferson has denied it utterly.\*

Without stopping to measure the competency, civil or religious, of a critic whose sayings in both kinds appear to have found credence rather as his than because they were intrinsically wise or just, thus much must be admitted, that in England the common-law embraces many things peculiar to the establishment, whereas in this country establishments are for the most part done away with ; and of course, so far as we have put an end to establishments, the law of that particular subject is dropped ; the adjunct has fallen with that which supported it. On the other hand, in setting our faces against what we consider an abuse of religion, we have not intended to make war upon religion itself ; and so the question is still open, what in America has become of that portion of the common-law of England which concerns alike the faith and piety of both countries ? This, having no connexion with establishments, could have none with their fate, and so is not to be got rid of by

\* 4 Writings, 397.

implication. Have we then abolished it? are there any statutes against it? any solemn enactments for purging our American common-law of its original christian elements? And if not, what hinders but those elements are still there, the leaven of the lump, the life-preserving condiment of the mass?

We know they are.

In the first place, it is an axiom of the common-law, that nothing in the shape of law can be valid, which does not consist with revelation.\* So absolute is the rule, that legislation itself submits to it; even statutes, the moment they are seen to cross its path, fall, like the avaricious dissemblers of old before their inspired accuser, dead at its feet.

And then, besides this negative bearing of religion, considered as a test of what is *not* law, it constitutes the undoubted basis of much, not to say most, that *is*.† It imparts, in very many cases, form as well as substance to our legal rules, making them altogether what they are.

The *sabbath-day*, for example, has not only been legislated for throughout the country, but is sacred also to the pre-existing common-law. A bill of exchange, coming to maturity on the sabbath, must be presented, in some of the states on the preceding saturday, in others on the ensuing monday,

\* 1 Black. Comm. p. 42. † Ibid.

but nowhere during the intervening hours.\* “If a bill or note be made payable *in terms* on a sabbath-day,” say the uspreme court of Connecticut, “it is void.” Not allowing of a construction that would push the payment aside to saturday or monday, it is “a contract to do an unlawful act.”† In like manner, a contract *made* on a sabbath-day, is an unlawful act *done*, and the courts of Vermont have held it null for that reason.‡ An apprentice, in one of the states, was lately adjudged free of his indentures, for having been put to labour on the sabbath day.§ Indeed, all secular employments, not within the true scriptural exceptions of necessity or charity, are contrary to the common-law of the sabbath, and regarded by it as misdemeanors.¶

Office works no exemption. Remedial justice itself stands still on the Lord’s day. Rent cannot be distrained for;¶ civil process must neither issue nor be executed;\*\*\* even a verdict taken after twelve o’clock on saturday night, has been held void in South-Carolina;†† and though the point has been otherwise ruled in New-Jersey, it was on a ground that left the general doctrine undisturbed; for where twelve men had been charged with an important duty, the performance of which had un-

\* 12 Johns, 423. 2 Conn. R. 73. † 2 Conn. R. 73. ‡ 2 Verm. R. 219.

§ 8 Conn. R. 14. § 3 Serg. and R. 48. ¶ 1 Brown 241. \*\*\*2 Johns. 257.

12 id. 178. †† 2 Bay, 232.

avoidably outrun the current business time allotted to it, the court deemed it a matter of *necessity*, (of *mercy* I would rather say,) that the result of their labours should be received on the sabbath, instead of being either wholly lost to the public, or thrust back upon their hands, to be brooded over till the day was spent.\* There have been many adjudications on as many different forms of the general question, and all, I believe, to one purpose. So precious, in legal estimation, is the sabbatical institute.

The name and government of its author are no less so. *Profane swearing* is punishable at common-law, as well as by a multitude of statutes. When habitual, it is even regarded as a nuisance, and indictable as such; a pest, from which the feelings and morals of society are to be defended by the public prosecutor.†

*Blasphemy* is a more heinous type of the same kind of offence. For though it takes a wider range of objects, and is not always levelled directly against the supreme being, yet the greater deliberation of the crime, and the malignity of purpose involved in it, give it an aggravation which the law holds in peculiar abhorrence.

A person was indicted in New-York in 1811,‡ for aspersing the character of Jesus Christ, and

\* 1 Southard, 156.

† 1 Murphy, 254.

‡ 8 Johns. 290.



denying the legitimacy of his birth. Counsel were found who thought it right to argue for the accused, that the law of this country had no concern with christianity, and cared nothing for its founder ; that the federal constitution had brought in a new era not only of political but of moral freedom ; and that blasphemy, confessedly unlawful in England, was here a birthright liberty, to be used at pleasure and with none to make afraid. But so thought not the jurist who presided at the hearing. “ The people of this state,” said chiefjustice Kent, “ in common with the people of this country, *profess the general doctrines of christianity as the rule of their faith and practice ;* and to scandalize the author of these doctrines is not only in a religious point of view extremely impious, *but even in respect to the obligations due to society, is a gross violation of decency and good order. Nothing could be more offensive to the virtuous part of the community, or more injurious to the tender morals of the young, than to declare such profanity lawful. It would go to confound all distinction between things sacred and profane.* “ No government,” he continued, “ among any of the polished nations of antiquity, and none of the institutions of modern Europe, (a single monitory case excepted) *ever hazarded such a bold experiment upon the solidity of the public morals, as to permit with impunity, and under the sanction of their tribunals, the general religion of the community to be*



*openly insulted and defamed."* True, he said, "the constitution has discarded religious establishments." But what then? "It does not forbid judicial cognizance of *those offences against religion and morality, which have no reference to any such establishment, or to any particular form of government, but are punishable because they strike at the root of moral obligation, and weaken the security of the social ties.* To construe it," he added, "as *breaking down the common-law barriers against licentious, wanton, and impious attacks upon christianity itself, would be an enormous perversion of its meaning.*"

Those barriers were of course upheld by the court. The culprit was condemned, fined and imprisoned.

Nor has the law of this case been overruled by later decisions. Doctor Cooper of South-Carolina has assailed it: general Root of New-York has opened his battery against it: others of less note, but of congenial character, have pursued it with a hue and cry: yet it stands, and is likely to stand; possibly, like the oak of the mountains, all the more deeply and securely rooted for the buffetings it has met with. The habits and just feelings of the country are in its favour. The tribunals of the country, far from disapproving, have adopted it.

The supreme court of Pennsylvania, in a case

quite recently before them,\* avowed the most earnest concurrence in its principles. A man had been indicted in that state for blasphemy, not against God directly, but against the bible; the design charged upon him being that of “contriving and intending to scandalize and bring into disrepute and vilify the christian religion and the scriptures of truth.” Counsel were again found, who were capable of arguing (they had the grace to do it on paper, and not by open declamation) that christianity was no part of our law, and that every one was free to be as impious as he pleased. The court, by justice Duncan, held a different language. They declared, that “even if christianity were not a part of the law of the land, *it is the popular religion of the country; an insult on which would be indictable as tending to disturb the public peace:*” justly adding, that “*no society can tolerate a wilful and despiteful attempt to subvert its religion.*” In other words, the people’s law will vindicate the people’s religion from outrage, whether that religion be of legal force or not in other respects.

Nor did the court stop here. The case had been brought before them with express reference to the question *whether the laws were christian*, and whether it was not possible to defame the religion of the country *without a breach of the laws*. This was the great point on which their judgement was

\* 11 Serg. & R. 394.

appealed to. "The bold ground" they say "is taken, though it has often been exploded, and nothing but what is trite can be said upon it — the assertion is once more made, that christianity never was received as part of the common law of this christian land; and it is added, that if it was, it was virtually repealed by the constitution of the United States and of this state, as inconsistent with the liberty of the people and the freedom of religious worship, and hostile to the genius and spirit of our government."

To all which the answer given by the court was substantially threefold.

First, the doctrine drew too deep. "If the argument" they said "was worth anything, all the laws which had christianity for their object, would be carried away at once — the act against cursing and swearing, and breach of the Lord's day; the act against incestuous marriages, perjury by taking a false oath upon the book, fornication and adultery, *et peccatum illud horribile non nominandum inter christianos*" — all these must perish, as undue restraints upon the vices of mankind!

In the next place, there was no colour to be found for such a doctrine in the whole history of the law. The decisions, both English and American, so far as had appeared, were all against it. Taken together, they established the point, not only that "from the time of Bracton, christianity had

been received as part of the common-law of England," but that by the concurrent testimony of our own jurists, such as Wilson, Kent, Swift and others, it had come down to us fully incorporated with ours.

Lastly, there were records of Pennsylvania decisions precisely in point.

The conclusion was inevitable; and the judges (one excepted) came to it with as much alacrity as confidence; declaring strongly "*that christianity, general christianity, was and always had been a part of the common-law of Pennsylvania.*" It was not a sectarian, or even an ecclesiastical religion as such, that they acknowledged; "not christianity founded on any particular religious tenets" under the gospel; "not christianity with an established church, and tithes, and spiritual courts; but christianity" largely and charitably understood, "with liberty of conscience to all men." This was the principle. And they acknowledged it for the best of reasons. It had grown up with the commonwealth, a thing of early adoption and of universal favour. "It was not," they said, "proclaimed by the commanding voice of any human superior, but expressed in the mild accents of *customary law*. Its foundations were broad, and strong, and deep; they were laid in *the authority, the interest, the affections of the people.*" So that "the grand objection to the indictment failing," (for it turned upon this) nothing remained but to condemn and punish the offender.

If further evidence of the religious character of the common-law were wanting, we might find it in the position which that law assigns to the clergy — the professed ministers and representatives of the being, whose name, and day, and word, it so anxiously guards from profanation ; and whose government is scarcely more signalized by any other feature than by the peculiar constitution of the clerical office ; the apostolic setting apart and mission of a set of functionaries, to fill the world with goodness.

Now these men have a place in the civil, as well as in the ecclesiastical economy. The nature of their office, the tenure suited to the parochial use of it, its vast importance, and the privileges calculated to promote its ends, are all of legal cognizance. And it is remarkable that in several cases which have arisen, particularly in Massachusetts, the usages of the country as to the appointment and dismissal of pastors, and various incidents of the pastoral relation, have been taken notice of by the courts *without proof*, as things within the *necessary* range of their attention. And for reasons thus arrived at, important judgements have been pronounced. It has been repeatedly decided in this manner, that where nothing is stipulated to the contrary, a clergyman once settled holds his cure for life ; a doctrine the more striking, as being an exception to the general rule, by which offices are not held for life but at will.



Observe chief justice Parson's line of argument in one of these cases.\*

He begins with "*the nature and duties of the ministerial office.*" What a theme for lay judges to handle! "*It is the duty of a minister*" he says, "*to adapt his religious and moral instructions to the various classes composing his congregation.* He ought therefore to have a knowledge of their situation, circumstances, habits and characters, which is not to be obtained but by a long and familiar acquaintance with them. *Vice is to be reprov'd by him in public and private; and the more prevalent and fashionable any bad habits, the more necessary is it for the faithful minister to censure them and rebuke those who indulge them.* But if it be a principle that his office and support depend on the will of his people, the natural tendency of such a principle, by operating on his fears, will be to restrain him from a full discharge of his official duties. Besides which, it is supposed, another consequence must be, "*the deterring of young men of information and genius from entering into the clerical profession, and devolving the public instruction in religion and morals on incompetent persons, without talents, education, or any suitable qualifications.* Thus an office, which to be useful ought to attract our respect and veneration, will be the object of general contempt

\* 3 Mass. R. 177.



and disgrace." These are *law views* of the gospel ministry.

It is further urged, that "considerations of irresistible weight result from the *ancient usages established by our pious ancestors* and wisely continued to this day." Which usages are thereupon set forth in detail, with reference, first, to the manner in which candidates are commonly invited "*to preach on probation ;*" then, to its being "*the practice of parishes, not having parsonages, to grant a sum of money or other property to the minister,*" under the name of a settlement, "exclusive of his annual salary;" and lastly, to the application which the minister makes of this settlement, in purchasing "*a permanent abode among his people.*"—Upon the whole, the office is concluded to be held by a life tenure, "but determinable for some good and sufficient cause, or by consent of parties."

What this "good and sufficient cause" for dissolving the pastoral connexion may be, is the next inquiry. "It is the duty of a minister" says the judge, "*to teach by precept and example.* If his example be vicious, he is worse than useless. *Immoral conduct is therefore such a misfeasance as amounts to a forfeiture of his office.*" Is there any other class of citizens of whose morality the law is equally zealous? "*Negligence also,*" he continues, "*or a wilful and faulty neglect of public preaching, or of administering the ordinances, or of performing*

*other usual parochial duties, is such a nonfeasance as will cause a forfeiture of the office."* Is there any other calling among men, where active diligence is so insisted on, or legal rigour so sternly applied to keep it up?

Last of all, when the fit occasion comes for a dismissal, we are furnished with a method of proceeding adapted to it. "The parties," says the same authority, "if they cannot agree to dissolve the contract, *may call to their assistance an ecclesiastical council mutually chosen; and their advice, technically called their result, is so far of the nature of an award by arbitrators, that either party conforming thereto will be justified. If in a proper case for a council either party should unreasonably refuse their concurrence to a mutual choice, the aggrieved party may choose an impartial council, and will be justified in conforming to the result.*" So fully and minutely has the nature of the office in question, and the whole interior of christian order concerning it, as practised by the congregational societies of the east, been actually passed upon by the civil judicatories.

Nor is the fact peculiar to the eastern states. Cases have frequently arisen elsewhere, that gave rise to like discussions, and like exercises of judicial power. There was a late instance of the kind in Maryland,\* a case of clerical competition, be-

\* 4 Har. & McHen. 429.

fore the supreme court of that state, and in which, because it was apparent to the judges "*that the principles of the christian religion cannot be diffused and its doctrines propagated without places of public worship, and teachers and ministers to explain the scriptures to the people ;*" and further, "*that pastors, teachers and ministers of every denomination of christians, are entitled to the protection of the law ;*" they did not scruple to interfere by *mandamus*, to restore an ejected pastor to his pulpit — a jurisdiction and strong agency of law, within the very precincts of the church.

In truth, the clergy must be considered favourites of the law. Even their personal freedom is a degree larger and better than that of other men. In some of the states it is true, they are debarred from running into the entanglements of political or military life to the prejudice of the great interests they are charged withal ; a danger which in other states they are as much as possible withheld from by permanent statute livings secured to them at home : but in all that relates to their legitimate calling and business, they are everywhere the freest of men, the most privileged of private citizens. The law will have it so. Aware of the pre-eminent importance of the sacred function, and rightly judging, that as it ought not to be tampered with or approached by the enticements of the world, so neither ought the world's commands, however ur-

gent the occasion, to be laid upon it; judging thus, the law invests the minister of Jesus Christ with immunities all his own. It does this partly for his sake, but chiefly for that of the cause he labours in. The claims that might trouble him and interrupt his usefulness, are either those of the state or of individuals. As to the latter, though a clergyman may be very poor, and often is so, yet while officially "about his master's business," it is unlawful to arrest him; he is above the reach of civil process.\* Here is one branch of his security. The other is still larger. Government, besides some offices that are worth seeking after, has a much greater number that are rather burdens than honours, and which instead of being asked for by the people must be imposed upon them. The minor magistracies must be filled; juries must be had without stint; sheriffs, marshals, constables, are wanted in all directions; while for making and repairing roads, attending to the wants of the poor, and a hundred other items of petty jurisdiction or service, agents are indispensable; and to these various calls, the people, whether they will or no, are bound to answer — all but the clergy, and they are not; to them, the law yields a respectful exemption. As a judge, a juror, a justice of the peace, a sheriff, marshal or constable, an overseer

\* 6 Danes' Abr. 675. 1 Bl. Comm. 377.

of highways, or even of the poor, no clergyman can be compelled to serve. His time is too valuable, his function too high, to admit of interruption. The people's law so judges. "Although," said chiefjustice Tilghman, in the case of a methodist preacher, sued under a Pennsylvania statute for refusing to serve as guardian of the poor of his township,\* — "*although we have no established church, yet we have not been wanting in that respect, nor niggards of those privileges, which seem proper for the clergy of all religious denominations. It has not been our custom to require the services of clergymen in the offices of constables, overseers of highways or of the poor, jurors, or others of a similar nature. Not that the exemption is founded in any act of assembly, but on a universal tacit consent. In the nature of things it seems fit, that those persons who devote their lives to the service of God and the religious instruction of their brethren, should be freed from the burden of temporal offices, which could but distract their attention and may be better filled by others.*" Justice Yeates concurred in this opinion,† on the double ground, that by the common-law of England "*no person in holy orders could be compelled to serve in a temporal office ;*" and because "*it is of great importance to the peace and good order of society that the character of the public exhorters of our religious duties should be held in the*

\* 5 Binn. R. 554.

† *Ib.*



*highest respect and veneration ;*” a standing which he thought incompatible with their being called upon “to serve as guardians of the poor, and other petty offices.” And so the defendant had judgement in his favour.

If then, — for it is needless to pursue these illustrations, — if the law concerning blasphemy and profane swearing, the bible, the sabbath, and the clergy, be thus explicit : if the name of God, if the revelation by which he has made himself known, if the day appointed for all men simultaneously to worship him, and if the designated functionaries of his service, be thus pointedly owned and honoured by the civil institutions of these states : if the just sentiments and morals of the country have given pledges like these to the religion of the cross ; adopting the great outlines of its doctrine, cherishing its very forms, resting upon it, and making it to our jurisprudence what its author is to our faith, the rock of ages : if these things are so, then is the structure of the republic still radically christian ; nor can skepticism itself deny that a consistent administration of its laws must also be of that character.



## CHAPTER VI.

### POLICY OF THE FEDERAL GOVERNMENT HISTORICALLY CONSIDERED.

BUT before resting finally in this conclusion, let us look a little into the federal government itself, and see whether it has not been generally understood and applied by those hitherto in charge of it, as neither hostile nor yet neutral to our religious interests, nor at all at variance in this respect with the institutions and policy of the particular states.

It will be strange if it turn out otherwise. For not only are the federal and state governments to be regarded as constituent portions of one system, with powers for national and local objects economically distributed between them — a view of things which some of our most prominent political writers have deemed the true one ; but to a large extent the functionaries of the two parts of the system actually occupy common ground ;

the federal judges taking cognizance of all manner of state laws, while the judges of the states, in cases continually occurring, apply the laws of the union. If the legal order of a system thus blended were subject in its details to different and conflicting rules of interpretation; if the judicatories appointed to administer that order were at one time and under one branch of it to uphold a set of interests which on other occasions and in applying other laws they are bound to be jealous of, if not in fact to pull down and lay waste; our boasted jurisprudence were indeed a medley.

### SECTION I. — *The Legislature.*

But we have in practice run into no such folly. Hitherto there have been prudent men enough in our councils to keep absurdities of this degree in check—men capable of discerning (what Mr. Jefferson was blind to) the difference between legislating *directly for religion*, as an end of jurisdiction, and *keeping it respectfully in view*, while legislating for other ends, the legitimacy of which was unquestioned: so that admitting the states alone could do the former, the union was at least competent to the latter; and thus the harmony of the whole might be preserved.

Having a clear delegated right for instance, to regulate their own sittings, congress have al-

ways held to the custom of suspending them on the sabbath day; a silent but unequivocal homage to the religion of the country. And to this they have added the decency of public prayers on weekdays; employing chaplains at the nation's expense for the purpose; never doubting, probably, that a power to adjust their rules of business, was a power to adjust them morally, *religiously*, if they pleased.

Nor have they scrupled to follow up example with exhortation, calling frequently on the people at large to show their piety in national observances; a practice older than the government itself.

As early as 1775, the memorable congress of that period took the lead in pressing such a call upon the country. And from that time to the peace of 1783, not a year passed without one or more of those impressive solemnities, held by all the people, sometimes in contrition and sorrow under chastisement, sometimes in grateful thanksgiving for victories in the field, and other mercies.

It is interesting to note the language in which the immortal congress of the revolution poured out their spirits on occasions of this kind. "*Desirous*," they say at one time, "*to have the people of all ranks and degrees duly impressed with a solemn sense of God's superintending providence, and of their duty to rely in all their lawful enterprises on his aid and direction*," those unmatched patriots an-

nounce to their constituents, as among the objects of a general fast to which the nation is invited, “*that they may with united hearts confess and bewail their manifold sins and transgressions, and by a sincere repentance and amendment of life appease his righteous displeasure, and through the merits and mediation of Jesus Christ obtain his pardon and forgiveness;*”—and again, a few months later, “*the congress do also in the most earnest manner recommend to all the members of the United States, and particularly the officers civil and military under them, the exercise of repentance and reformation; and further require of them the strict observance of the articles of war, and particularly that part of said articles which forbids profane swearing and all immoralities:*”—and again, in 1777, “*that with one heart and voice the good people may express the grateful feelings of their hearts, and consecrate themselves to the service of their divine benefactor; and that together with their sincere acknowledgments and offerings they may join the penitent confession of their manifold sins, whereby they have forfeited every favour, and their earnest supplication that it may please God, through the merits of Jesus Christ, mercifully to forgive and blot them out of remembrance; that it may please him graciously to afford his blessing on the governments of these states respectively, and prosper the public council of the whole; to inspire our commanders both by land and sea, and all under them, with that*

*wisdom and fortitude which may render them fit instruments under the government of almighty God, to secure to these United States the greatest of all blessings, independence and peace ; that it may please him to prosper the trade and manufactures of the people and the labour of the husbandman, that our land may yield its increase ; to take schools and seminaries of education, so necessary for cultivating the principles of true liberty, virtue, and piety, under his nurturing hand ; and to prosper the means of religion for the promotion and enlargement of that kingdom which consisteth in righteousness, peace, and joy in the Holy Ghost :”— again in 1779, “ that God would grant to his church the plentiful effusions of divine grace, and pour out his holy spirit on all ministers of the gospel ; that he would bless and prosper the means of education, and spread the light of christian knowledge through the remotest corners of the earth :”— again, in 1780, “ that we may with one heart and one voice, implore the sovereign Lord of heaven and earth to remember mercy in his judgements ; to make us sincerely penitent for our transgressions ; to prepare us for deliverance, and to remove the evils with which he hath been pleased to visit us ; to banish vice and irreligion from among us, and establish virtue and piety by his divine grace :”— again, in 1781, “ that it may please him to bless all schools and seminaries of learning, and to grant that truth, justice, and benevolence, and pure and undefiled religion may universally pre-*



*vail :”— again, a little later, “ that he would grant success to all engaged in lawful trade and commerce, and take under his guardianship all schools and seminaries of learning, and make them nurseries of virtue and piety ; that he would incline the hearts of all men to peace, and fill them with universal charity and benevolence ; and that the religion of our divine Redeemer, with all its benign influences, may cover the earth as the waters cover the seas :”— and yet again, still later, “ that all ranks may testify their gratitude to God for his goodness, by a cheerful obedience to the laws, and by promoting, each in his station and by his influence, the practice of true and undefiled religion,” which is declared to be “ the great foundation of public prosperity and national happiness.”*

Such were the breathings of patriarchal virtue. And though the practice they illustrate has been less common in the later stages of the government, it has not been laid aside. Excepting two administrations, none has yet refused to conform to it in proper circumstances. As in earlier days, events such as the commencement of a revolutionary struggle, the arrival of a French treaty of alliance in the midst of it, the capture of a British army, or the pacification that secured our independence, never failed to arouse us to some general manifestation of religious duty ; so in 1812, the breaking out of a new war, and in 1815, the consolidation of a new peace, were



deemed by congress, and by the unsophisticated president of those years, occurrences that ought to send the people one and all upon their knees before the throne of heaven. "*It being a duty peculiarly incumbent in a time of public calamity and war,*" said congress on the first of these occasions,\* "*humbly and devoutly to acknowledge our dependence on almighty God, and to implore his aid and protection, therefore resolved, that a joint committee of both houses wait on the president and request him to recommend a day of public humiliation and prayer, to be observed by the people of the United States with religious solemnity, and the offering of fervent supplications to almighty God for the safety of these states and the speedy restoration of peace.*" And when peace arrived, the same branch of the government called in like manner for a day of thanksgiving ; which was held accordingly, the venerable Madison having too much right feeling and good sense to refuse his concurrence.

It remains to add, finally, that even in the highest walk of power, the law-making sovereignty itself, congress, wherever they have seen their way clear in acting at all, have generally acted as a christian legislature.

What should hinder ? Is there need of special jurisdiction for a purpose like that ? Congress

\* 2 Story's Laws, 1280.

have no such jurisdiction of the *public morals*, any more than of the religion on which these depend ; and yet I believe it has never been discovered that there is any defect of constitutional warrant for conforming our statute-books, as well as our lives, to the best known standards of moral rectitude. Even politics cannot, for their own sake alone, be meddled with by congress ; although to say that the republican principles of the government are to have no influence upon the agencies employed in carrying it on, were rather too refined an effort of constructive modesty. The whole conception is wrong. Religion — morals — politics — what have any of them to do with topical demarcations of power ? with formal admeasurements of jurisdiction ? Jurisdiction is indeed necessary : to do anything, congress must have power over the subject matter : but having this power, *how to use it* is for them to judge of ; they may use it with political, moral, or even religious propriety, if they will.

And so for the most part they have practically held. The constitution grants no power for instructing our Indian neighbours in the arts of civil life ; but as it does grant a power for regulating our intercourse with those neighbours, congress have not scrupled to provide by a standing law, with a large allowance of funds for its execution,\*

\* 3 Story, 1741.

that our demeanour towards them shall be such as a christian people owe to savages ; full of active kindness, and involving the employment of persons of capacity and virtue to reside among them under the license of the executive, to teach them agriculture, to educate their children, and to do whatever can be done for at once their spiritual and general welfare. Here is christian beneficence grafted on a power that says nothing about it.

Congress, again, have no direct authority for looking after the religious and moral habits of the public forces. Their warrant is, to regulate, to govern. Yet what have they done? They have carried christianity, plain, undisguised christianity, into the very code of our war discipline ; the last place in which some men would expect to find it, but where, from the beginning of the government, it has steadily maintained its ground.

In the act “for establishing rules and articles for the government of the armies of the United States,”\* we have these particulars :

*“ Article 2.— It is earnestly recommended to all officers and soldiers diligently to attend divine service ; and all officers who shall behave indecently at any place of divine worship, shall, if commissioned officers, be brought before a general court-martial, there to be publicly and severely reprimanded by the president ;*

\* 2 Story, 992.

*if non-commissioned officers or soldiers, every person so offending shall for the first offence forfeit one-sixth of a dollar, to be deducted out of his next pay ; for the second offence he shall not only forfeit a like sum, but be confined twenty-four hours ; and for every like offence, shall suffer and pay in like manner : which money so forfeited shall be applied by the captain or senior officer of the troop or company to the use of the sick soldiers of the company or troop to which the offender belongs.*

*Article 3. — Any non-commissioned officer or soldier who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article ; and a commissioned officer shall forfeit and pay for each and every such offence, one dollar, to be applied as in the preceding article.*

*“ Article 4. — Every chaplain commissioned in the army or armies of the United States, who shall absent himself from the duties assigned, (except in cases of sickness or leave of absence) shall on conviction thereof before a court-martial, be fined not exceeding one month’s pay, besides the loss of his pay during his absence, or be discharged, as the said court shall adjudge proper.”*

The act “for the better government of the navy of the United States,”\* is of similar tone :

*“ Article 1. — The commanders of all ships and*

\* 1 Story, 761.

vessels of war belonging to the navy, are strictly enjoined and required *to show in themselves a good example of virtue, honour, patriotism and subordination*; and to be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against and suppress all dissolute and immoral practices, and to correct all such as are guilty of them, according to the usages of the sea service.

“Article 2.—The commanders of all ships and vessels in the navy, having chaplains on board, shall take care that divine service be performed in a solemn and reverent manner twice a day, and a sermon preached on sunday, unless bad weather, or other extraordinary accidents prevent it; and that they cause all, or as many of the ship’s company as can be spared from duty, to attend every performance of the worship of almighty God.

“Article 3.—Any officer or other person in the navy, who shall be guilty of oppression, cruelty, fraud, profane swearing, or any other scandalous conduct tending to the destruction of good morals, shall, if an officer, be cashiered, or suffer such other punishment as a court-martial shall adjudge; if a private, shall be put in irons or flogged, at the discretion of the captain, not exceeding twelve lashes: but if the offence require severer punishment, he shall be tried by a court-martial and suffer such punishment as said court-martial shall inflict.



All which regulations, for both branches of the service, have been again and again enacted and re-enacted by the national legislature, and are come down to us in substance from the dawn of the republic, venerable with years as in matter, and rendered sacred to our military policy by the accumulated testimony of all times in their favour. The proper discipline for those who are to be entrusted with the safety and honour of the country, the greatest of all trusts, is thus adjudged to be a discipline, not only of good morals, but of regular pious observance and instruction ; of daily worship ; of reverence for God's name and institutions ; of sabbath-keeping, hearing the gospel preached, learning and practising the whole lesson of the cross.

Is it doubted whether the chaplains of the army and navy are necessarily of the christian faith ? Let me ask first, whether in truth they have not always been so, professionally at least ? and next, whether it is to be credited for a moment that persons of known infidelity could obtain the appointment ? Would such be *chaplains* in the fair sense of the statute ? Suppose a jew should ask for the appointment ? But the chaplain is *to preach sermons*—by the very terms, a christian office ; and this on *sunday*, the christian, not the jewish sabbath. Jews then are out of the question. Would pagans stand a better chance ? Of jew or gentile I



say nothing in reproach; but when it is considered that both the legislature and the nation are ostensibly christian, the conceit that any but a christian ministry has been provided for or can be properly allowed in either branch of the service, is quite inadmissible.

Thus explicit and uniform, at least till very lately, has been the course of our legislative councils on the subject of religion. Their example, their exhortations, their enactments, have all been on the side of christianity; taking its truth for granted, acknowledging its obligation, magnifying its importance, treating it as in fact the religion of the country, and as worthy to be made the rule of virtue for public bodies and for states, no less than for individuals.

## SECTION II. — *Executive Policy.*

But what shall we say of the executive department? Is the case altered here? Have we one set of principles for making laws, and another for applying them?

Not at all. Let the proper discrimination be made; let a few presidential errors be separated from what upon the whole has been the settled tenour of our policy; and this portion of the government will be found as decidedly christian as any other.

We are a *peaceful people*. It is one of the

steadfast pretensions of our policy that we give no cause of war to others, and go not to war ourselves but in self-defence. Is this a fruit of heathen ethics?

We pretend to be *direct and honest in our diplomatic intercourse*. Have we learnt this from the diplomacy of the world, the very art of double dealing and cajolery?

We say we are *a just and a faithkeeping people*; and with some lamentable exceptions, it is a boast we have lived up to—thanks again to a wisdom which mere sordid interest knows nothing of.

Our policy in some respects aspires even to *benevolence*; a virtue which till Christ and his apostles taught it, was nearly unheard of upon earth. We have a hospital for the worn-out sailor; a pension for the disabled soldier; a statute of discharge for the insolvent debtor; a treasury of relief for whole districts, whether domestic or foreign, under visitations of fire, famine, pestilence, or other great calamity: and where, but under the auspices of *bible-charity*, have such things been?

How amazingly have the war-rigours of the law of nations been softened, and its whole character improved, by the gospel: and as no jurists have been more explicit than our own in attesting the true cause of this reformation,\* so no govern-

\* 1 Kent. Comm. 191. 2 id. 247. 2 Mas. R. 449. &c.

ment has had a kindlier agency than ours in carrying it forward.

But have we not slaves in our possession? This is against us. Let us make the best excuse we can. We have them not by choice, but inheritance; we have them by the inconsiderate wickedness of other times; we have them because we cannot immediately help it. This, so far as the question of policy goes, is the whole case. The constitution, shuddering at an enormity which it finds in the country, but refuses to name, *submits to the evil because it must*. And what the constitution does, those governing under it do, and for like reason. Even religion does the same. Forbearance is on all hands indispensable. But then forbearance is not acquiescence: it is a debt due from the laws, from religion, from charity itself, not to slavery, but to the *public peace*; and just so far as we tolerate slavery, we do it on this principle alone—a principle that mingles patience with hope; preferring mild influences to forcible intervention; content with slower progress, so that the point of ultimate desire and destination be the more safely and surely, though with loss of time, attained.

And now that we are in the confessional, there is another self-reproach to be submitted to: we have seen the red man fare as ill nearly as the black at our hands. To say nothing of justice or

of public faith, our conduct towards the wretched people of the forest has come undeniably and grievously short, of late, in the article of human kindness, so fit for us to bestow, so important for them to receive. There is shame as well as sadness in the story. May God avert worse consequences.

But let us again distinguish rules of policy from facts that do but dishonour them. It was not so from the beginning. Washington, Adams, Jefferson, Madison, none of them understood it so. Their views and practice were quite otherwise. The settled policy of the government is otherwise. And pity if it were not. We are a great and powerful people, while the indian tribes are comparatively small and helpless: we are civilized men, they savages: God has given us wealth, knowledge, arts, and a religion that makes these doubly precious; while they are at our feet, buried in the miseries which our religion commands us, and our magnanimity should impel, to feel for and relieve. Our duty is thus marked out by circumstances. What christian ethics make it right for a superior and happy race to do for creatures in their desperate condition — poor, hungry, naked, ignorant, depraved; that, precisely, is our line of duty. And so, till lately, it has always been considered. Good men, wise men, never had a doubt upon the subject. If there be a rule of our policy

better settled than any other; one that by long usage and the nurture of public opinion, growing with our growth, has ripened at length into something like a legal principle; such as none but the vicious and froward are capable of violating; such as cannot indeed be violated without a breach alike of consistency and sound morals: it is the rule of acting towards our indian neighbours with a charity proportioned to their need and to the opportunities we have for advancing their improvement and happiness. The true indian policy of the government is in short a christian policy.

It is even of christian origin. The names of Elliott and Mayhew are embalmed forever in the fame of its commencement. After them, Washington is conspicuous among its founders and promoters. "It is sincerely to be desired," said he to congress in 1791,\* "*that all need of coercion in future may cease, and that an intimate intercourse may succeed, calculated to advance the happiness of the indians and to attach them firmly to the United States:*" and after other suggestions of like tone, he added, that "*a system corresponding with the mild principles of religion and philanthropy towards an unenlightened race of men, whose happiness materially depends on the conduct of the United States,*

\* 1 Am. State Paper, 24.



would be as honourable to the national character as conformable to the dictates of sound policy." And he declared on another occasion through his secretary of state, "*that the government was determined to exert all its energy for the patronage of the indians.*"

President Jefferson, in his second inaugural message, used this language:— "*The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on their shores: without power to direct or habits to contend against it, they have been overwhelmed by the current or driven before it: now reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence, and to prepare them in time for that state of society which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and of household use: we have placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves.*" The style is not to be commended, but the sentiment is right.



President Madison, in his first inaugural, declared that he was resolved "*to carry on the benevolent plans which had been so meritoriously applied to the conversion of our aboriginal neighbours from the degradation and wretchedness of savage life to a participation of the improvements of which the human mind and manners are susceptible in a civilized state.*" To which might also be added the testimony of yet other presidents, with a variety of treaties and miscellaneous state-papers, all with one accord affirming the policy which the eastern missionaries first set on foot, which Washington adopted, and to which an unbroken succession of administrations, down to that which has been recently terminated, set their seals of unanimous concurrence.

Admit, if it must be so, that a single executive officer has at length departed from this policy; does not the policy itself remain? What if the indians whom Washington and Jefferson and Madison nurtured, Jackson has put to the sword or banished? Can the customary law of the government, as settled by the uniform practice of prior chief magistrates, be put an end to by the dissent of one? Did either the constitution or the customary law of the people perish when both were violated in the persons of the Georgia missionaries? or even when the cries of those injured men for justice were rejected with scorn by the high functionary under whose license they had acted?

SECTION III. — *The Federal Judiciary.*

The judicial branch of the government, if we turn at length to that, will exhibit the same religious aspect as the other two, and in a much steadier light.

In the first place, for everything but jurisdiction, the federal courts are common-law tribunals; and of course, whatever of christianity belongs to the common-law, belongs also to the jurisprudence by which they are governed.

With us moreover as in England, the judges are the official guardians of the public morals; a trust which in this age of the world it were impossible to execute without attending liberally to the claims of religion. Good morals nowadays consist in honouring every kind of law to which the community we live in are subject; divine as well as human laws; and especially the law of public sentiment as founded on or modified by these. Who ever heard of an irreligious morality?

As to the actual state of public sentiment among us, if it be not truly christian, it is at least juridically so regarded; having, as such, a direct practical bearing not only on the great principles of legal right, but on the whole doctrine of crimes; imparting to the worst offences an increase of guilt, and heightening others, which else might not be punishable at all, into indictable misdemeanors.

Why is it that an affray in a place of worship or a churchyard is held more criminal than elsewhere? \* Why are parents, guardians, and masters, bound under peril of indictment to take care of the children they are entrusted with? †

Even the dead must have the treatment to which by usage and the kindly associations connected with it they are entitled. Christian sepulture is their first due. For though at sea we cast them into the deep, necessity atoning for what it makes inevitable; yet on land the rule is otherwise; we may not plunge them in the rivers, but must bury them. ‡ And their home, when at last they have reached it, must be sacred to their repose. To dig up their bodies, even for dissection, a useful purpose, is an outrage on the feelings of the living, not to be passed over. ||

Offences, moreover, against christian modesty, such as the exhibition of licentious pictures; § or against christian sobriety, such as open and notorious drunkenness; ¶ or against christian charity, such as firing a gun in the neighbourhood of a sick person and with knowledge of the alarm and pain it must inflict; \*\* or against christian mercy, such as wantonly killing or torturing a domesticated brute animal; †† all are *crimes*, condemned by public sentiment, and by the law it has given birth to.

\* Russ. Crimes, 278. † *ibid.* ‡ 1 Greenl. R. 226. || 2 T. R. 733. § 2 Serg. & R. 91. ¶ 2 Yerg. R. 542. \*\* 9 Pick. 1. †† 1 Dal. 339., 5 Cow. 258.

Even rules of property have been founded in exigencies of moral feeling alone. Land given to charitable and pious uses, passes by politic construction without a donee capable of taking it.\* The government, as parent of the country, looks to this, and suffers not such a gift to fail for deficiency of forms. The legal title may be in abeyance, or in the clouds; but the beneficial estate must not be lost to the cause of benevolence and piety. An attempt to wrest it from that cause, has been deemed a sort of sacrilege.

But not to multiply details unnecessarily, there is one, in which all parts of the law, civil and criminal, common-law and statute, federal and local, and all the host of agencies employed in giving effect to them, combine to render an incidental but clear testimony to the truth of our religion — I mean the testimony of *the bible-oath*, so frequent, so universal throughout the country; the acknowledged basis on which the credit of most other evidence rests; the great dependence of the judicatories; the agreed criterion of business veracity everywhere; the sacrament by which nearly all the ties of the social order are made fast. If a man goes into office, he *swears* to be faithful; or into the jurybox, he *swears* to be true: no witness is heard till he swears: even the mer-

\* 2 Pet. 556.

chant at the custom-house must lay his hand upon the book, ere his goods can be admitted to entry or his vessel cleared. Thus we do. And it is by doing thus (of course within reasonable limits) that we get on with our affairs, a thing otherwise hopeless.

It is true, a mussulman or a hindoo may be allowed to testify in our courts, and by an oath not christian; for it is better to permit an oath of superstition, where it can be honestly taken, than to suffer private justice to fail. But to pave the way for this, special cause for it must be shown: the creed of the witness must appear such as to place him beyond the reach of the usual form of adjuration, and within the influence of another: thus much must be made out by christian proof, before a form not christian can be tolerated.

Even quakers, though a christian sect, and intending what is virtually a christian oath, have been obliged to ask for legislative permission to swear, if I may so express it, by affirming; that is, to take the oath in effect, without doing so in the common-law terms. So settled are the general rule and usage.

Atheists, who can fortify their word by no religious sanction, cannot be witnesses at all. To obtain credit in a court of justice, an oath is necessary; and there is no taking of oaths, because no feeling of their obligation, without religion. Des-



titute of this, man is a monster uncongenial with his kind, and not suffered by the law to take his seat among them on equal terms. The law puts no faith in him; does not believe a word he utters. The most absurdly superstitious of pagan idolaters is better, in legal contemplation, than an atheist; for the idolater may be sworn, and then is listened to—a respect no atheist can deserve. The law repels an atheist from its presence; stops its ears against the sound of his voice. Between him and the christian what an immeasurable space. The position of the false religionist is intermediate these extremes, perhaps equidistant from both. He too receives less credit than a christian, though he can feel an oath and is heard. It is only the man who swears by the God of the bible that is strong alike in credit and competency, fulfilling without exception or abatement all the offices of proper citizenship.

In truth, we cannot as a people do without religion. No nation can. None ever attempted it perhaps but once, and that in a moment of political madness. If the security of oaths could be dispensed with, religion would still be necessary. Our habits call for it; our economy is built upon it. Our very notions of legal obligation (ours is a government of laws) rest here. Without religion, law ceases to be law, for it has no bond, and cannot hold society together. Where but in the



petty sphere of things indifferent, or which involve no principle, can human enactments draw to themselves the praise of the obligations they assert? Obligation, in its larger and better sense, is of *God's government alone*. As affecting our great interests, actions are right or wrong because he has made them so; and law, so far as it deserves the name, adjusts itself to this idea; finds here its true dignity and power.

It is thus that law becomes *a sacred thing*; felt to be such by those under it. Mortals can of themselves produce nothing of the kind. We sanctify God's appointments *ministerially*, by keeping them; but we can *institute* nothing sacred. God has given us a sabbath day and it is holy; while the so-called holy days of our devising run all to levity and folly; taking no hold upon the conscience, and seeming often but the more profane for the very attempt we make to consecrate them. Crimes, so far as God's law denounces them, are crimes indeed; while the *mala prohibita* of the statute-book appear but peccadilloes, and to the moral sense are little more, whatever be the vengeance that dogs them in this world with penal consequences. In a word, law, as of man's workmanship, is *an expedient*; with God, it is *a rule of right*: as man's, it is *a politic contrivance*; as God's, *an everlasting principle*. So that wherever rules of right, or changeless principles have place — and

that is everywhere but in cases of moral indifference ; there can in the nature of things be no binding ordinance or just exercise of power, but in conformity with the laws of heaven ; none that does not derive from thence its best title to our respect and submission.

The divine code is of two tables. To measure the precise extent in which the polity of this or any other christian land is debtor to both or either of them, might be difficult. The task, so far as I know, has never yet been seriously undertaken, much as it deserves to be ; for few inquiries could have greater interest, the statesman, the philosopher, and the christian, being all concerned in it. Unfortunately, we go on our ways not only without inquiry but without reflection ; using the light of revelation as we do that of the sun—seeing by it, acting in it, turning it to all the ends of secular enterprise ; without ever looking up to where it comes from, or indulging a thought as to the true source of its incomparable benefits. Nevertheless, it is the sun's light and not ours, that gilds the firmament ; it is God's wisdom and not man's, that has imparted to the institutions of christendom their most distinguishing advantages. Let historians and scholars judge. Let the best systems of heathen law be set in competition with the very worst that have arisen under christian auspices. Who does not *feel* the contrast ?

The first rudiments of a pure civil economy were to the ancients wanting. Their notions of civil right and duty, and of the relations these depend on, were essentially defective. Witness the diversity, the instability, the occasional atrocity, the frequent absurdity and folly, of their penal legislation. Witness their doctrines of marital, paternal, and magisterial tyranny. Witness their heartless neglect of the more needy portions of society. Witness the rank to which the whole race of their women, half the population of their states, were degraded—and this in violation not only of common justice but of manly feeling, of natural delicacy and refinement, of gratitude for affections undeserved but unbounded, and for consolations and pleasures numberless and invaluable; of that vast debt of tenderness in fine, to which brutes alone are now insensible, and which among christian men is everywhere held due, both of right and courtesy, from the stronger to the weaker, the rougher to the softer, the worse to the better sex.

The most celebrated nations of antiquity knew not, to any just purpose, either God or themselves. They had no certain faith or conception of the immortality of the soul; much less of the conditions on which its final welfare depended. Both the rules and sanctions of the divine government were hidden things: superstition might grope after them, but for effectual legislative use or influence

they were not to be found. Virtue itself, in our view of it, was to them unknown. What they chiefly distinguished by that name, was a thing rather of war than peace; it savoured of bloodshed; and until cleansed by the baptism of a better dispensation, was as likely to work disorder in the social system as to heal or strengthen it. Where there is either no religion or a false one, true virtue, in the modern sense of the term, cannot and never did exist.

Yet without this sort of virtue, what is government? How can the religious and moral blind be eyes of safety to the people? Pagan legislation, compared with what we are accustomed to, runs wild of necessity: its track, in spite of the illusion which classical names and associations may throw upon it, is but the trail of savage life, erratic, cheerless, far from justice and mercy and the hope of good. For the great mass of the people there can be no law at all. The law-maker will probably take care of himself and his friends, but the weak and poor, the widow and fatherless, the stranger and he that has no friends, where is their security? Who shall take care of them? who break the oppressor's arm when they are stricken? Even the sick, the cripple, and the insane, go unprovided for. No legal charities; no hospitals; no statutes of insolvency; no brotherly kindness for any one

class of the unfortunates : all is selfish, reckless, unprincipled : the great man has license for his lusts, while the multitudes that most need the protection of the laws, suffer and die without it.

What a field for the triumphs of christianity. And how gloriously has she marched over it. Go back to the first civil-law traces of her footsteps. Compare the code of Justinian with the antecedent laws of paganism ; not excepting the masterpieces of Lycurgus, and Solon, and Numa, and the decemvirs. Follow her next to the protestant reformation and its consequences : thence to the fuller development of her influence in modern Europe ; and lastly, to these western shores, more favoured still. How education flourishes in her path ; how virtue thrives ; how liberty rejoices ; how poverty and misery look up and are cheered ; how the common people everywhere recover from the abasement of ages, as she moves along. The world, that by former estimates “was made for Cæsar,” now belongs to us all. Christianity has redeemed it from tyrants and it is ours. She has made a new world of it (politically and juridically new) by renovating the nations, — some of them at least, — for its occupancy. The relative rights and duties of mankind are beginning to be understood : property is safe ; religion free : law reigns instead of men : mercy mingles with the administrations of power : government, from pandering to the lusts



of the few, designs, and in great measure accomplishes the equal benefit of all.

And if this be true anywhere, it is especially so in these United States. No land of earth partakes equally with ours in the civil and political meliorations effected by the gospel. The impartiality as well as supremacy of our laws, is theoretically perfect, and in practice, much above the mark of other countries. We have not only no preference of christian sects, but none of ranks in the state, and none of individual pretenders. Our women have their rightful elevation in society: our poor are cared for: everything takes the place which on christian principles belongs to it. How marvellous that such a government should have incurred the reproach of being *unchristian*, or even indifferent to christianity.

#### SECTION IV. — *Results.*

Upon the whole case then, the argument, so far as facts are concerned, may be briefly stated thus:

1. That the first settlers of the country came to it as christians, and with strong intent to occupy it in that character.

2. That the lives they lived here, and the institutions they set up, were signalized by the spirit and doctrine of the religion they professed.

3. That the same doctrine and spirit, descending upon the patriots of the federal era, entered



largely into the primary state constitutions of the republic, and if analogy can be trusted, into the constructive meaning of the federal charter itself.

4. That christianity is still the popular religion of the country.

5. And finally, that notwithstanding some untoward acts of individual rulers, it is to this day, though without establishments and with equal liberty to men's consciences, the religion of the laws and government. If records tell the truth; if annals and documents can outweigh the flippant rhetoric of licentious debate; our public institutions carry still the stamp of their origin: the memory of better times is come down to us in solid remains: the monuments of the fathers are yet standing; and blessed be God, the national edifice continues visibly to rest upon them.

## CHAPTER VII.

### QUESTION OF EXPEDIENCY CONSIDERED.

Now what is the practical use of these results ? what the true inference of propriety and duty, to be drawn for the administrators of such a government, and for politicians of every grade who undertake to speak of its affairs ? Are we to respect the counsel of the fathers or despise it ? to use our institutions according to what we know of their true character and the intent of those who founded them, or to put upon them a construction that does violence to both ? In a word, shall the government be administered *as it is, or as it is not ? as a christian or a pagan* government ?

On legal principles all is plain. The law divides nothing against itself. To administer a christian government in an unchristian way, is like an experiment of despotism in a republic ; it is unlawful, inconsistent, revolutionary ; and never to be justi-

fied but by reasons of the last necessity — reasons calling not for administration, but for *change*.

And to this point the argument inevitably comes. Of course it ceases here to be a legal argument, and becomes one of *expediency*; and the question now is, whether it be better for us as a people to continue firm in the law and religion of our institutions, or to barter both for a style of politics which both alike discountenance. This is the final test-question of the case. Let us give it a short trial.

#### SECTION I. — *Direct Bearings of the Question.*

There are two lights to place it in; the one religious, and more particularly interesting to christians; the other political, and of general concern.

If the bible be true, religion is important both to states and individuals in a degree which nothing else can approach. This will be conceded.

If then the bible be true, it is the duty of all men indiscriminately, to cherish the interests of religion in the world. Station and influence, instead of furnishing an exemption from this duty, greatly enhance it; being talents which the author of the bible claims the use of for himself.

And is the truth of the bible doubtful? and to be so held by a nation institutionally founded upon it?

At any rate, the bible *may* be true; and so, unless the religion it teaches were discredited by

bad fruits, as working mischief rather than righteousness and peace; to honour it, as well in public life as elsewhere, would be still the safest, wisest policy.

Nay, it is still a duty, as plain if not quite as urgent as before; for it is the duty of all men, and especially men charged with the trusts of a republican government, to advance as much as possible the happiness of all: and to this end, the happiness of every class in particular, so far as consistent with the general weal. This is at once republican and christian. Republic is a word of christian meaning: by the very force of the term, the justice which reduces men to a common level of desert for legal ends, and the kindness that would extend to them a ministry of equal beneficence without respect of persons, are enjoined upon the officers of such a government.

The pious portion of our citizens may be more or less in number as compared with the whole mass: enough to say, that they are a large and respectable company; with sensibilities as acute as those of other men, as capable of pleasure or pain, of being gratified or tortured; and that the subject to which of all others they are most alive, and through which the most oppressive wrongs can be inflicted on them, is that of their religion and the interests connected with it. In a cause in which they believe the salvation of the world in-

volved, and which therefore they have no alternative but to pray and labour for without ceasing, how is it possible they should see their faith derided, their profession scoffed at, their efforts frustrated or embarrassed, their master spit upon anew in the halls of power, without distress? And does a *republican government* allow the peace of one portion of its citizens to be thus invaded? is it thus that an administration *for the common welfare* proceeds?

But even admitting that religious citizens have no just claims as such upon the favour, or if you will, the forbearance of government, and that their peculiar interests and happiness may be rightfully trodden under foot; there is yet a further observation to be made: the bible deals with nations in their organic structure, *as capable themselves of religion, and amenable to God for the want of it*. What shall we say here? Nations are *moral beings*, and thus, in reference to a power above them, *competent subjects of moral government*. There could be no law of nations, for the great republic of nations to enforce, if it were not so. Their capacity for having the discipline of a regular moral control applied to them, is already under practical treatment upon earth; and how much better is the right of the celestial wisdom to assume and act upon it as the basis of a polity such as earth is unequal to — a perfect polity, that puts the states

and empires of the world upon their good behaviour, not only for purposes of international law, but for those of the yet higher law that binds them all in common obligations to heaven. Nations, like individuals, must answer for their doings. And as this grows out of their relationship to the divine government, it is a moral, *a religious responsibility*: nothing else can be made of it: a responsibility that touches the conscience, and has to do with sanctions of tremendous weight.

But whose conscience? First and chiefly, that of men in office. Let them look to it. After them, all who have influence, all who love their country and can serve it, owe a debt to the cause of the national piety.

But what are the sanctions referred to? Ask revelation; ask history. Nations die, but rise not again; and as there are no judgements for them beyond the grave, they have their deserts, for good or for evil, in this life; nor of this did any nation ever yet come finally short. Temporal prosperity in various forms, and temporal misfortune and misery no less various, these are the sanctions of a nation's duty.

How to escape the evil and secure the good, is the material inquiry. Can it be hard to tell? Are not the great principles of moral government the same in all their applications? Is there one rule of right for individuals and another for bodies



politic? *To fear God and keep his commandments, is the universal law*; the law alike of private and public, personal and national duty. And since the bible *may be* true, is it not best on every score, to avoid the hazards of disobedience? The yoke is easy, the burden light, the gain or loss immeasurable.

## SECTION II. — *Christianity Favourable to Popular Intelligence.*

As however the world's logic is slow to take results from christian premises, let us for a while go over to the world, and place the subject in a light to which infidelity itself cannot object; the light of worldly wisdom, clear of all mixture from a higher source.

If common speech may be trusted for any one thing as settled in the public mind of this country; and if there be a saying more thoroughly proverbial among us, more widely received and circulated, more popular, more *national* than any other; it is this, that the life-principles of the republic lie in *the knowledge and virtue of the people*.

And the position, besides being conceded on all hands, is intrinsically tenable. So long as the people are well informed in what their interests require them to know, and true to themselves in treading honestly the paths of this intelligence, the security of their liberties would seem as well pro-

vided for as in the nature of the case it can be. The people, under God, are their own best guardians. Power, vest it as they may, will ever be struggling against its barriers: there must be a ceaseless watch upon it; and no vigilance or fidelity but their own, can be relied on for the purpose.

Knowledge and virtue, then, are *within the policy of the government*. Of course, whatever else is favourable to these, must itself be so far *an object of favour to the same policy*. This is plain.

And if this be plain, what hinders but that christianity may come in here for a share — I do not say of government patronage; she needs not that — but of political respect and kindness at least? Who shall dispute her title?

Knowledge, in some few departments, made considerable progress, it is true, before the christian era. But what departments? and who, and how many in proportion to the rest of mankind, were the knowing ones that explored them? Was not everything that could be called science among the ancients, limited to mathematical and physical subjects? Was the philosophy of mind and morals, of human action, government, and the social order, understood in any just measure by the wisest? or if understood, was it attempted to be taught, but in the shades and porches, and among privileged disciples; a matter of sect and mystery, fit only

for adepts, and in which the mass of men could have no lot or portion? A narrow basis truly for the liberties of states to rest on.

If on the other hand christianity since it came has had the benefit of the press on its side, that circumstance could only increase its power, without removing, or perhaps lessening, the need of its agency for carrying instruction home to the people at large. Christianity, besides being itself a revelation, and having in it a revealing principle that tends to enlighten everything else, has *a principle of charity also*, which the press could never supply, and which was indispensable for bearing about the lamp of knowledge where it was most wanted, among the commonalty of the race, the multitudes by whom the region and shadow of death was everywhere peopled to excess, and whom the tender mercies of mere worldly goodness would have left forever to their fate. The charity of the gospel is its most beautiful, most distinguishing characteristic; unequalled, unapproached by human glories. The gospel aims at *teaching all men indiscriminately* — the small as well as the great, the poor as well as the rich, the base as well as the honourable, the bond as well as the free; all who have faculties for its beneficence to work upon; all who are capable, if neglected, of doing their country mischief, or if taught and cherished, of casting a mite into the treasury of its welfare.

Teaching, and teaching the whole family of man without exception or preference, is the end and rule of nearly all that is social in the gospel scheme.

Nor let it be imagined that this teaching relates only to matters of the life to come. If christianity looks for its ulterior and best fruits to a future harvest-time, it looks also with assiduous care to present culture ; and why should its tendency to make us wise and good in this life be brought under disparagement, even with politicians, by the circumstance of its promising yet greater things for the next? What if its highest aim is to be accomplished far hence, and in another and brighter sphere? A man methinks can scarcely fail of being made a worthier citizen of earth itself by a process that fits him for heaven.

But abstracting from the final causes of christianity, and attending only to its history and to visible facts, who can help seeing that it has exerted and is exerting a more widely instructive and edifying popular influence than any other doctrine or agency has ever done ; a more decided and effective patronage of knowledge in every shape, and under every useful form of institution ?

Until christian times, the legitimate forces of education were never organized at all. Neither universities nor colleges, nor academical establishments of any sort agreeable to our sense of the phrase, were to be heard of. Above all, there were

no *common schools* ; no systematic arrangements for instructing the great bulk of mankind, and thus imparting to the general body-politic those principles of life and health and sound action so essential to the well-being and true dignity of states.

Whence has this capital defect been supplied ? Was there aught in the old order of things that could do it ? Especially, after the vain experiment of four thousand years, what hope was there that a populace who had been all that time despised as worthless, should at length, under the same system, and without a new element infused into it, be taken all at once under tutelage, and treated as immortal beings deserve ? How comes it that this signal occurrence was postponed till our era ? that when the miracle appeared, of a gospel preached to the poor,—and not till then,—the poor began to be educated ?

Christianity favours education in its highest, as well as its humblest walks ; supplying most of the teachers of our learned institutions ; prescribing much of their discipline and order ; furnishing many of their textbooks ; being in short their best friend, their most constant and assiduous benefactor. Infidelity, as has sometimes happened, may found a college, and may pique itself upon shutting out christian hands from the management of its affairs. The same malignant principle, under the guise perhaps of philosophy or a show



of intellectual freedom, may seek to change the character of an existing seminary, by discouraging the use of christian classics, or giving preference to those of an opposite tendency. But as yet such enterprises have been rare indeed in this country; and the amazement with which the public have in general regarded them, shows how irregular they are deemed, and how they violate the settled usages and agreed proprieties of the case, according to which, as everyone knows, the interests of religion and of science go hand in hand.

But observe the influence of christianity, however remarkable in the upper grades of learning is still more conspicuous in the descending scale of the subject. Aristocracy is no part of the gospel. It was impossible that a religion of universal kindness should be satisfied with seeing the benefits of education dispensed, though in the largest measure, to the few alone. The many must also be provided for. Indeed the humbler and more populous classes of society are, if I may say so, the favourites of that religion. Its founder left them wards of its especial care; besides which, they have more need than others, and need gives law to charity. Philosophy has little or nothing for the poor man, and still less for the poor man's children. The press would never institute a sabbath-school or a free-school, nor lead to such an institution. Human goodness is fastidious in its



choice of objects ; it has a taste to gratify. The paved avenue, the well-built street, is where it loves to walk. Its service is an eye-service, and the great and noble of the earth are the masters it looks up to for the daily bread of its vanity. How different, both in nature and direction of effort, is the gospel benevolence. It must be so. For what is rank or riches, or the "pride of place," to a kingdom "not of this world?" What measure of value has the gospel of such a kingdom for shadows? Are immortal spirits the less worthy its regard, for being found in rags and hovels? Enough that they are immortal ; and that they are capable of a culture that may ultimately turn their rags and hovels into princes' robes and palaces. Looking to this, and putting transitory circumstances out of view, the gospel draws affectionately to the poor man's side, his only visiter, and converses with him ; takes him by the hand ; opens the path of knowledge before him and leads him in it ; gives him a new balance to weigh the world withal ; enlightens his contemplation of the future, as well as the present ; makes his eye sparkle with hope, his heart throb with unwonted desires and purposes, his whole nature expand into the dimensions of a renovated intelligence, conscious of his rights, conscious of his duties, conscious that he is to live and act forever. Such is the charity of the gospel ; such its habitual condescension and work.

Perhaps the greatest mercy a human being can receive, is that of having the natural evils of his mind and character redressed by christian improvement. There are two obstacles to be overcome — first ignorance, and then depravity ; and two stages of progress in surmounting them — education in general truth, and special education in the truths of religion ; the last as of paramount importance, the other, as both preparatory to it, and fulfilling at the same time a hundred collateral aims of that unearthly benevolence which has the peculiarity of making men wiser and better and happier and more useful every step they take towards the consummation that is to crown all in the end.

This double process of improvement is going on extensively in the world under the only influence capable of achieving it. The instrumentalities are various, the design and tendency one. What universities and colleges can do, they do mainly as christian institutions. And then the sabbath schools, the free schools, the common schools of every name — how they multiply and flourish in the train of the gospel, and there only ; how provision for them is made from place to place, in nearly exact proportion as enlightened piety prevails. Look at Great Britain, and more particularly Scotland. Look at the puritan stars in our own galaxy. If there be on earth a blessing truly christian, and which but for christianity the

world had never known, the modern and incomparable one of *common schools*, for the instruction of the common people so called, is of that description. Next to revelation, there is none perhaps that better illustrates the divinity of its origin.

Nor do the provisions of the gospel end here, for the apparatus of reform is not yet complete. The higher establishments of learning are for those who can hope to become scholars, — a very limited class ; while the more numerous popular schools are in general available for youth only, and of them not all ; besides which it is plain that ordinary means of culture fail essentially in one point of spiritual power. What becomes of this exigency ?

Happily, christianity has yet another resource, *the machinery of her own house proper*, that covers the whole ground. She has a manual of truth for every human eye ; a ministry commissioned to teach all nations and people under heaven ; church-edifices and pulpits without number, for the convenient exercise of this function ; and a day of rest from common avocations, and of frequent recurrence, enabling every degree and condition of mankind, the heavy-laden and servile not excepted, to break loose from the world, and go up to the instructions of the gospel institute : — all these in combination ; all these co-operating in every part of christendom, from week to week and forever.

What schools are here ! Imagine the extent of

their influence. Schools, from which no mortal is excluded ; and which never voluntarily give up their pupils, but hold them fast to the end ; repeating to manhood and age, to decrepitude, to the death-bed itself, the same lessons of wisdom that infancy and childhood have been nurtured in, and with which no season of life can be too deeply imbued.

And then the topics of this branch of christian teaching, what are they ? not geometry, not astronomy, not mechanics. The ancient world, by its own wisdom, knew something of these. Not agriculture, commerce, or manufactures ; arts however useful and respectable, yet of comparatively small interest. None of these things ; but in lieu of them all, *the duties that we owe to God and our fellow-men ; the principles of eternal right, and of law and government as connected with them ; the practical sciences of faith, conscience, and moral order, on which the destinies of the intelligent universe depend* : — topics, which it is difficult to think of without mental elevation ; impossible to understand and appreciate, without lasting improvement ; and which, important every way in reference to the passing scene, are infinitely more so as taking hold on immortality.

What if the particular scheme of government with which we are first and chiefly brought acquainted by the gospel, be in some respects above our imitation ? It is however *a legal government, and over human*

*beings* : let this suffice. Its perfection, as devised and swayed by omniscience, makes it so much the worthier study for all. Of law, at any rate, and of the nature of man as a subject of law, it gives us every information we are capable of ; and when this is done, the whole art of government, the whole philosophy of life is laid bare.

Let any member of society, in whatever supposable case of controversy with his neighbour, go honestly to the bible for direction, and he will not long be ignorant as to what is right and proper for him to do. Or let a citizen, who would learn the true measure of his duty to the commonwealth in a point beyond the reach of the statute-book, search the scriptures, and see if there be not a rule of unerring guidance there for him. Or let a public man, who may chance to have forgotten that he is but a steward, responsible not only to his constituents whom he may possibly deceive, but to God whom he cannot—let such a one turn to the same exhaustless source of moral light, and mark how speedily his recollection will come back to him. Where is the doubt, among all the doubts of social, civil, and political ethics, which the sword of the spirit cannot divide ?

And when the canon of duty is made clear, what but revelation can instruct us adequately in the sanctions attached to it ? what else bring up to view those deep and dread considerations of the



future, that leave us no choice but to be and do according to the obligations we are under ?

Even as freemen, christianity is our best teacher. The greatest dangers we are subject to as such, may be guarded against by attending to its lessons.

Be it remembered, those dangers are of slow and insidious growth. The fortress of liberty has been much more frequently sapped than taken by storm. Nearly all nations have been originally free ; and they have lost their freedom, for the most part, by imperceptible degrees — two things generally conspiring in the work of mischief ; one, an encroaching government ; the other, a corrupt, or an ignorant and too confiding people.

There is in almost universal attendance on political authority, a set of notions and feelings, little thought of it may be as a source of apprehension, but from which the people have more in truth to fear than from everything besides, out of themselves. I allude to the false conceits, the upstart vanities, the usurping and self-aggrandizing propensities of office : a progeny of pride and ambition, under the impregnation of power ; the invariable issue of those parents wherever they are brought together. Even in America, where the breath of our nostrils is freedom, how different is the man in office from the same man before his elevation. Compare the candidate with the functionary — the bows and smiles of solicitation, with



the air a little brief authority puts on. The change may be more or less apparent, but it is generally visible, and nearly always real. Men are not made for command. The best of men are often sorely tried by the temptations attending it. How much worse its influence on those of another description, to whose lot it more usually falls. The host, especially, who in a land like ours get office by *office-seeking* — who fawn and flatter and deceive for it — to what use are they likely to put the acquisition when made? The more abject the submission they are capable of stooping to at the popular shrine, are they not the surer to turn reprobates when their object is attained? The demagogue of the hustings is ever, to the extent of his daring, a tyrant in the capitol; and but for the constitutional limitation of official terms, we should see the garb of his humility drop entirely at the threshold of place, and the tyrant take his seat without disguise.

To make the danger imminent however, the people must become blind to it. And is this an improbable event? Are not ignorance and party-perversion, their besetting sins, ever competent to bring it about?

Indeed, how can the people help confiding too much in officers appointed by themselves?

There is, besides, a sort of spell, that seems to fall upon the common mind, respecting govern-

ment agents, the moment their commissions are sealed. Power is as dazzling as it is corrupting. The people look up to their rulers, though of their own creation, as to demi-gods ; too often repaying in kind the idolatries by which they have perhaps been wheedled of their votes in making those rulers what they are. As in a case of ancient story, no sooner is the golden calf, their own handywork, set up, than they bend the knee before it and cover their faces in its presence.

Fortunately, there is a light in which power, dazzling as it is, may be inspected by the naked eye, and this to the undoing of its magical illusions ; a light in which, shorn of its beams, it stands for just what it is and ought to be — a thing of duty, not pomp ; of public service, not personal aggrandizement and lordship. The divine wisdom, as exhibited in the scriptures, is a medium of vision that reduces the great things of this world to a very humble scale of magnitude. It does what nothing else can do, it sets the glories of earthly potentates before us in their true dimensions ; stripping them of their enchantment ; putting down their high looks and imaginations ; causing us to see, that man in office is still man ; that crowns and sceptres are but stewardships ; that tyranny is an abuse, pride an abomination ; that the sons of Adam are all equal ; and that all flesh, however clothed or fed or done homage to, is grass.

How beautifully does the bible illustrate nearly everything precious in the institutions of a free people. *Our first principles are there.* And if it be important, as many of our state-charters solemnly warn us it is, to recur often to first principles, let us cherish the book and the ministry that more and better than all other means, instruct us in them. Every pulpit exercise, every sabbath spent as it should be, every hour of christian reading or meditation, is in some degree a discipline of this kind; improving us not only as subjects of God's government but as members of a self-governing community; not only in the liberties of the gospel but of the republic also. And of this, historical illustration might be given if it were necessary.

### SECTION 3. — *Christianity Favourable to Popular Virtue.*

Now, that a religion acting thus on the intelligence of the popular mind, must be propitious in like manner to its growth in *virtue*, is self-proved. Increase of knowledge, especially in morals, leads to a nicer sense of character, and the use of higher standards of excellence. Knowledge is even essential to virtue. To know the right, is a prerequisite for putting it in practice. Formerly, virtue was perhaps a thing of heroic sentiment only. It has still, or ought to have, so much of the Roman in it as not in point of fortitude or energy to dis-

grace its classical fame. The difference arises chiefly from a change of objects. Modern virtue aims rather at happiness than reputation ; the happiness of all men, rather than the applause of all. And this change of objects gives occasion for a new measure of intelligence. Ignorance may be no great impediment to selfishness ; but to diffusive goodness, the art, if I may so call it, of social benefactorship, an acquaintance with many things is indispensable : the nature of man, the relations he stands in towards God and the world, the structure of polity best suited to his rights and wants, the whole economy in short of his great interests and duties, should be understood. Virtue, from being a blind impulse, a rush of impassioned feeling, has become at length a principle of considerate philanthropy ; and it is the wise man now, that can best earn the praise of being good.

Politically speaking, it is the well-informed citizen that can best discharge his duty to his country. In office this is clear. Men are not born statesmen. And why not out of office ? The people, it is true, have only reserved a single form of power to themselves ; but it is one of controlling influence, and in the use of which they are actually the supervisors and critics of the government : if a public agent have been faithless, they must know the nature and bearing of his delinquency, to judge of it properly as an abuse of their

confidence ; or if he have behaved imprudently or absurdly, they can ill provide for correcting his folly by a new agent, without knowing something of the state and exigency of the case. The correctives of a free government being popular, there must be popular intelligence to apply them. For want of this, there are nations numberless that are incapable of such a government. For want of this, if ever such a want should become prevalent in the United States, our own happy system may soon pass away.

It must not however be forgotten, that virtue has a *heart* as well as a head, and that what is properly *moral* in the principle is by no means of least account.

And here religion is necessarily all in all. What other influence can supply its place ? What else secure, *in all circumstances*, the practical honesty of mankind ? Suppose an atheist in office ; and suppose him tempted by interest to a malversation in which no human eye can detect him : what hold have we on such a man ? How can we expect him to forbear a wrong which on his principles he may advantageously commit ? Nor is the purity of private life a whit safer under like trial. Good habits, and the dread of temporal punishment, will have their weight no doubt on most occasions ; but in the secresy of *deeds that shun the light*, what can they do ? Cut off the hopes and fears of an allot-



ment beyond the grave ; escape even in fancy from the eye that never slumbers ; and what remains, what can remain, but the grossest and most time-serving expediency, to keep the monster man from working out all the atrocities of his nature ? Without religion, there is strictly no such thing as conscience ; and without conscience, no virtue that is trial-proof.

For the purpose of the argument, however, a less extreme position may suffice. If christianity does but *come in aid* of virtue ; if the rules and sanctions of the gospel can be said in any measure to confirm and invigorate the morals of society ; even this advantage, atheism itself being judge, is worth securing. Popular virtue is in no danger of exceeding the required degree. Whatever adds to it, facilitates the reign of the laws, improves the social order, and brightens the prospects of free government. And will this much of praise be grudged by any one to the religion of the cross ? a religion, the very list of whose requirements in virtue, puts all other schemes of ethics to the blush ; while the rewards and penalties by which its demands are enforced, carry an awe, and an amazement, that degrade the pomp of human retentions into solemn trifling.

True or false, so far as christianity has any weight at all, it is a restraint upon bad principles and an encouragement to good ones. Men pro-

fessing to believe it a fable, have acknowledged the benefits it confers upon society as a promoter of peace and orderly habits.\* Nor is it in the ingenuity of man to point out a mischief, social, civil, or political, which it either introduces, or does not tend to avert.

What would the world or the commonwealth be, if this religion were universally adopted and practised? Would not our rights be safer, and better enjoyed? Would not aggression and violence cease? Would not the laws be nearly self-executed, and governors and judges, eased of half their burdens, stand spectators of a scene of tranquillity beyond their utmost powers to produce?

On the other hand, suppose christendom were again thrown back into paganism, and the light of revelation extinguished: no bible, no clergy, no sabbath, no gathering of the people for instruction, no public charities, no mercy for the poor, no rational hope of heaven, no fear of the second death — all trace of the gospel obliterated from the earth: and what would the earth be then?

It is in vain to object, that fanaticism, a morbid excess of religious zeal, has sometimes taken to itself a christian name, and thus disguised, has held tenets and perpetrated acts of great irregularity and license in the state. Fanaticism is neither christianity nor yet religion of any sort.

\* Jefferson's Notes, p. 316.

It is a perversion, a disease. Nor are religious interests the only ones deep enough for the malady to take root in. Every interest, every opinion even, which the mind of man can brood over till it becomes impassioned, may furnish matter for fanatical heat and delusion. And according to the variety of these opinions and interests, the delirium which then takes place of reason in maintaining them, is also various. There are fanatics of liberty, and fanatics of power ; fanatics in the church and in the state ; of religion and irreligion ; that love God, and that are crazed with inextinguishable hatred of him. Who that ever glanced at the volcanic atheism of the French revolution, has yet to learn that bad principles are at least as capable of malignant frenzy as good ones ?

Our present state of society is indeed a mixture. That true christians are in every view the best of it, none can doubt, and few will have the assurance to deny. And the good influence of the faith that makes them what they are, extends more or less, though insensibly, to all around them. Unbelievers, wicked men, even criminals, are held back from many things that are wrong by a grace they own not, and of which they might affect to be ashamed if they knew its power over them. The gospel tells them of an hereafter. They laugh at it perhaps, but the sound abides in their ears, and the nerves of crime are shaken by it. "If 'twere done

when 'tis done," is a doubt to hold a murderer in check. Christianity has filled the world with terrors for evildoers, and there is none so desperately wicked as not at times to find them in his path, and to be turned back by them.

Among the multitudes that are unconscious of intending any capital mischief, but whose principles, being worldly, are vicious, and of dangerous tendency—the more dangerous, for being less shocking and offensive—christianity employs another mode of beneficence, and tempers, moderates, reforms mankind, to a surprising extent, beyond the range of its completely victorious action. Christian reason is all too strong for the sophistry of practical error; christian example, too bright and fair for men habitually to look upon without an involuntary effort of conformity. The whole history of manners and civilization, is a body of proof to this purpose. Civilization, in the refinement our meaning of the word imports, belongs exclusively to the gospel. Heathenism has nothing like it and never had. The morals of the most celebrated ancient states were barbarous compared to it. Socrates, Plato, Solon, allowed of vices and practised them, to which the decencies of our day permit not so much as a name to be given. The very classics of Greece and Rome are in this respect filthy.

Nor is the reforming influence of the gospel

merely personal. Evil of all sorts, the theory as well as the practice of evil, gives way before it. In the great contest of ages between christianity and the elder religion of the nations, paganism, long ere the victory over it was won, began to truckle to the superior merits of its rival, and to copy after them. Its creed was gradually amended; its ritual habiliments were put under process of cleansing; it became more intellectual, more philosophical, more tolerable every way; till in the time of Julian, there seemed, among its more cultivated votaries at least, scarce a feature of its early deformity left. The very spirit of iniquity, spell-bound by the gospel, submitted to improvement:—

“——the evil one abstracted stood  
From his own evil, and for a time became  
Stupidly good:”—

a preparation for the complete and final overthrow that was to follow.

The same kind of operation may be seen within the pale of the christian church itself. Sects, like individuals, are apt to be foolish when they are young. Adopting some strange error or distortion of truth in their belief, and deriving thence a party-distinction and a name, they commonly overrate the importance of their singularities, and run into doctrines and practices unwarranted by the standard they profess to adhere to. The puri-



tans did this. Much more, the quakers and anabaptists of the first impression. But things are gradually altered. Christianity (the extravagance of newborn sects is not christianity) exerts a sun-like central attraction on the wandering orbs of its system; drawing them ever towards the truth, however far they may at times recede from it: some of them are comets, and slow of returning, but unless dissipated and lost in their wild career, they come at last; and come, improved alike in temperament, and in correspondence with the general order of things which for a while they have disturbed.

The vices of papal christianity belong indeed to its manhood rather than its youth. The ignorance of the dark ages, and the union they allowed between state power and ecclesiastical pride in the church of Rome, account for the fact. But even those vices, the growth of centuries of increasing corruption, began to hide their heads as soon as the bible was fairly opened again, and the light of the reformation fell upon mankind. Truth, where it can be seen, unvarying christian truth, is a wonderful restorative. It has already done much for European popery. What would papists themselves think of a renewal of the Tetzels traffic now, or a fresh crusade to the Holy Land? The head of the romish church is still struggling with the incubus of a temporal dominion; nor can a

thorough reform be looked for in that quarter till this evil is got rid of; but the increase of christian knowledge and liberty in most parts of papal Europe, and the amending influence of good example scattered, though sparingly, among the people, have produced a tone of thought and feeling in their minds, to which the re-enacting of enormities formerly popular among them, would be now intolerable.

With us, the case is still better. And were the papists of this country severed completely from the European stock, especially if they could be freely communicated with by other sects here, it is probable they would soon receive much of the kindly esteem and confidence due to every form of sincere christianity, but which, as protestants, we have hitherto withheld from them. Even as matters stand, American papists (not of the first generation from abroad) are visibly different from those of the old world. The freedom of our institutions and habits, together with the general diffusion of religious intelligence, and the force of an enlightened public opinion acting everywhere and upon every subject both in church and state, has led to a gradual softening of their prejudices, and rendered both their notions and usages less objectionable—less dissonant at least from ours,—than they once were. We have papal christians worthy the primeval times; men of large

views and elevated piety. Let foreign mixtures cease to corrupt us, and foreign prelates to retard the progress of our faith, and we may soon have many such. It becomes protestants to take care that they be not themselves found hinderers of the good work. There are mistakes abroad. Individual papists must not be held answerable for the sins of the popedom. Are we to confound private christians with the monster of the seven hills? to see in them the antichrist of the scriptures? Our business is not denunciation, but reform. If papists err, let us endeavour to set them right; and to this end, let our intercourse with them be that of continual kindness and good offices. The time may come (God speed it) when this branch of the church shall be as healthful and beautiful as any other. The tendency of things is certainly that way.

Thus, as in the physical universe there are cycles, which after ages of partial aberration and disorder, bring round the harmony of nature, and restore everything to its place in the celestial panorama; so in the moral and religious world, among the nameless errors of belief and conduct by which society is from time to time distracted and its dearest interests threatened, there is perhaps not one, which time and truth together may not, by their own healing agency, under the guidance of an all-knowing, all-adjusting director,

ultimately redress ; till at last, the great cycle of the curse itself being accomplished, the glorious “ latter day ” shall come in, as a prepared and natural event.

Upon the whole case then, if the intelligence and virtue of the people be truly, as they are said to be, the pillars of the republic ; and if these pillars, judging from observation and history, are of a texture that may possibly fail, and so needs strengthening and consolidating ; what statesman or politician, what citizen of common prudence in affairs, though faithless of christianity as a thing from heaven, would yet reject the aid it tenders and is undeniably calculated to afford, in a point so critical, so vital ? Who but an enemy to his country would do this ?

#### SECTION IV. — *Christianity Favourable to Liberty.*

Let us not deceive ourselves. The cause of our religion, rightly understood, is *that of our liberties also.*

It is so, from its tendency to promote the education of the people.

It is so, from the relation it stands in to the culture and maintenance of sound ethical principles among them.

It is so, because it makes them strenuous for at least one class of rights, the rights of conscience ; and by becoming familiar with the sacred charac-

ter of these, and the duty and practice of upholding them at every hazard, they naturally extend their regard in some measure to others of inferior rank ; for the rights of freemen, so to speak, are sympathetic, and it is impossible that where the greater are vindicated and honoured, the lesser should be despised. Right is a rallying word of general import ; and when the ears of the spirit are once open to it, they hear with a sensibility that nothing can escape. External freedom may have its limits, but the free in soul will look beyond them. Tyranny may retreat but slowly from the field of its dominion, but a people once aroused to contend with it, are not likely to abandon the pursuit till its last traces disappear.

Christianity, in fine, is a supporter of the laws. Need this be proved ? And what is liberty but the certainty, the impartiality, the sovereignty, of the laws, as contradistinguished from the will of man ?

I am aware that a tendency quite opposite to that of upholding all men in their rights, has been ascribed of late, and by a writer of some merit, (not the merit of originality in the particular instance,) to the gospel scheme. It is alleged, in substance, that so far as this gentle religion has to do with *the established order of things in society*, it never disturbs existing arrangements, but just takes the world as it is, accommodating itself to actual



circumstances be they what they may—to the extent, at any rate, of allowing half mankind to be held in hopeless bondage to the rest; permitting a shade of colour to work the ruin of a whole race; leaving fraud and rapine in unquestioned possession, not only of their primary victims, but of all the wretched offspring of those victims to the end of time; thus visiting the sins, not of parents, but of the oppressors of parents, on the children, and children's children, which in God's mysterious providence are suffered to be born to such an inheritance.

Nor is it a professed enemy of the gospel that has written thus. His object was, to defend slavery, not to slander christianity. And he seems, like some others who have gone before him in the same track, to have taken for granted, that because the gospel found slavery in the world and did not specifically denounce it as a monster, the practice of turning men into beasts of burden, and making merchandise of beings destined to immortality and for whom Christ died, might be considered as tacitly sanctioned by that system of faith.

But there is a small mistake of principles here. The gospel deals not in blustering words. Its course is not so much at variance with its wisdom.

In regard to domestic slavery moreover, there are peculiar reasons for a milder policy. The visible arrangements of society, however objectionable,

are but developments of a state of moral evil in the minds and characters of men, that calls yet more vehemently for redress. It were idle to make war upon positive institutions, while the subtler mischief that finds expression in them, is left unassailed; and as the gospel aims at thorough reform, it naturally begins its work and employs its chief attention where alone that end can be secured.

The gospel too is catholic in its plans : it pities the slave population ; but if possible, pities the community of masters still more, for in one view their plight is worse. The world is passing away : the miseries of thralldom, like the triumphs of magisterial domination, will soon be ended : and when the slave and his master are both gone to their account, whose case will then be most interesting to the charity that never fails ? Christianity looks far ahead. The joys or sufferings of an hour cannot divert its attention from those magnitudes of future good and evil which reduce present distinctions to nothing. It were as unworthy the dignity as the kindness of such a religion, to expend its efforts on designs of merely partial improvement. There are petty wrongs enough which it corrects, but not by turning aside from the path of its great purposes : and how mightily soever it works upon the conventional structure and habits of society, it does this for the most part *incidentally*,

while the immediate scope of its action are the minds and hearts of the social body : and the final cause, not earth but heaven ; nor yet heaven for a favourite class or two, but for all that can be made to deserve it.

The method of proceeding is equally admirable. The march of the gospel, even among its enemies, is in general neither violent nor threatening. No angry demonstrations go before it ; no trump of heralds is heard. The nature of its weapons forbids. Its warfare is not waged by clash of arms, nor by contests of evil deeds, but by truth, reason and benevolence ; by enlightening the understandings of men, consulting their own sense of what is right and best, awakening them to the attractions of virtue and perils of iniquity, making use of them in short to conquer themselves. “ It is the property of religion,” said Athanasius in a harsh age, and when the temporal power was in christian hands ; “ it is the property of religion, *not to compel, but to persuade.*” God himself deals with us in this manner. Men are not to be personally won even to his allegiance against their will : much less should we expect them to relinquish their possessions, or change their long-established institutions, till their own eyes have been opened to the propriety of doing so. He who “ went about doing good,” and by that simple process began the conquest of the world, showed us at once the true

nature of his kingdom, and the method he would have his followers take to complete its victories.

To determine therefore whether christianity is against domestic slavery or for it, we must look at the general scope and bearing of its doctrines, not the freedom or reserve of its special anathemas. If we find it *opposed, generally, to all manner of civil wrong* ; and if *oppression is an object of its peculiar abhorrence* ; I should think the question might be considered at an end. The gospel generalizes thus, not only because its great ends are general, but because it has neither time nor taste for petty controversy. By condemning *principles* rather than *instances*, it avoids vain wrangling, and at the same time, attacks the enemy in his seat of power. To what use, indeed, were the breaking down of a few outworks, while the citadel remains? or why pursue a war of posts and places, when the headquarters of mischief are within striking distance?

Slavery is not the only enormity that christianity found in the world and did not impugn by specific denunciation. It found polygamy in the world, and left it there. It found wives in the most degrading subjection to their husbands, even in the Roman state where polygamy was not practised ; and yet uttered no mandate for their liberation. Against idolatry in general, it was sufficiently explicit ; but idolatry itself, in the detail of its insti-

tutions, in the variety of its gods and goddesses, its temples and oracles, its sacrifices, its auguries by thunder, by the flight of birds, by the inspection of entrails, its feasts, orgies, and lascivious abominations, escaped without a curse.

What is still more apposite, christianity found, along with slavery, the *slavetrade* in the world. It found the slavemarket crowded with white slaves and with black; some brought thither by crimes, for which, however, the jurisprudence of our day has no such horrid penalty; some, captured in battle, a mischance our modern war-codes are far too merciful thus to aggravate; some, victims of penury and starvation, whom now the very worst portion of christendom would feed, not enslave; and some, if we can believe it, offcast children, waifs of paternal cruelty, sold into bondage by the immediate authors of their being — an atrocity then strictly legal, and according to the *settled order of things*, but which to us appears an historical chimera, too monstrous to have had an existence in real life. If society has been reformed in this respect, it is the spirit of the gospel, not its forms of speech, that has done it. That gentle spirit has, by its very gentleness, effected changes, which a more military demeanour would not only have failed to accomplish, but would doubtless have interfered with and delayed, if not prevented.



The *African* slavetrade it is true, arose in christian times. But how? So far at least as England and this country were concerned, it began in double fraud; a fraud upon the government that suffered it, and upon the victims of its operation. Queen Elizabeth had no suspicion that the vessels first cleared under her license for that trade were to carry slaves, any more than the first Africans enticed on board of them had, that slavery was to be their portion. The times were christian, but the agents of the work were not.

The trade grew indeed, and flourished. A strong delusion came upon the world concerning it. Even good men gave themselves up insensibly to the lie of its justification. And the fact, that slavery was not *in terms* prohibited by the gospel, was then, as now, the great deceiving argument.

But the time is past. What has been cannot be again. The slavetrade, on the high seas at least, is now *piracy*, a thing accursed of the law, as well as by the general judgement and feeling of mankind.

And if a sample were wanted of the true gospel strategy of reform, and how it acts upon positive institutions by a quiet and gradual subjugation of the principles that sustain them, here it is. When truth gets hold of the conscience, there is no withstanding its power. The still small voice, the whisper of heaven in the ear of conscience, has

made itself heard where thunders would not—over sea, over land; amid the ragings of the deep; amid the miserly covetings of city and country; in the recesses and by the deaf adder of the oppressor's heart.

And will the good influence stop with present attainments? Can our morals submit permanently to the ridicule of geographical boundaries? Shall the very same thing which at sea is felony, be forever lawful and reputable at Washington? Is the traffic of tears and blood less shocking to look upon than to read of?

There is a progress of mind and feeling on this subject, that must needs go forward. The marine slavetrade had its advocates, a halfcentury ago, as sincere, as zealous, as rational, as any that slavery itself can now pretend to. They argued quite as well, and much in the same style: referring plausibly enough to the tenour of the old testament scriptures, and the seeming acquiescence of the new; citing the undoubted usages of the early times; insisting on the natural inferiority of the coloured race, and how much better they may be provided for by white masters than they are able to provide for themselves; enlarging on the necessary inequalities of human condition, and the probable intentions of the deity in that respect; tracing out many analogies, interpreting final causes, spinning the thread of metaphysical subt-

lety to its utmost length ; doing all that ingenuity or sophistry could do in such a service : and what was the result ? While they clung to the horns of their favourite altar, the flood of a reformed, a christianized public sentiment, swept over them, and carried the idol it was dedicated to away.

Let others take warning. The moloch of the seas, with all his priests about him, is fallen. How long the kindred demon of the land can yet survive, may depend on circumstances ; but he is doomed, and his day must come. And when the moral sense of the people shall have done itself this justice, it will not be far methinks from the one remaining step necessary to its entire vindication.

The danger is, that the progress of the work may be retarded by the indiscretion of some who wish well to it. Good men, under excitement, are apt to overstep the wisdom of the gospel, and by assailing long-established institutions as if they were just formed, and whole districts of country, upon whom the curse of domestic slavery has descended from past ages, as if they were the immediate authors of their own misfortune, to provoke a spirit of resistance that ought never to be awakened, and which is calculated to injure the cause of religion in more ways than that of impeding its enterprises of mere civil reform.

Still, the work must proceed. The golden rule, which all men readily trace to the gospel, of doing

to others as we would ourselves be done by, is enough to carry it through; for claiming for all orders of persons without exception, the very equality our declaration of independence asserts for them, that glorious rule has only to obtain a lodgement in the hearts of the people, and no partial distribution of liberty will then satisfy them. It is a rule of right as well in politics as in jurisprudence; and because when men come by their rights they are necessarily free, *it is a rule of freedom*: christian principles are as broad as the field of their application can be: it is a universal rule: and when the consciences of men are so instructed, every form of undue dominion, private or public, personal or national, must sooner or later bow to its sway.

No doubt there have been tyrannies in the church itself, and other tyrannies in plenty under its auspices. But whence? and how sustained? By holding up the light of the gospel to the people, or putting it out? By teaching them to read the bible in their own language, or steadfastly withholding it from them, and substituting mummeries of superstition in a dead one? Was there ever a *well-instructed protestant country*, that did patient homage to a tyrant? Has not the progress of every country, in so far as religious cultivation has distinguished it, been marked with a precisely correspondent melioration of political condition?

Where is the exception? Taking all Europe together, the dark ages were alike the ages of ignorance and of thralldom both in church and state. When Luther undertook to break the seals of the sacred volume and disclose its treasures to the people, the communities that listened to him were gradually built up in new and better notions of government, while the despotisms of the time, in conscious apprehension for the cause of absolute power, joined hands to crush him; nor was it possible to penetrate them with any sort of reforming influence but by the slow agency of christian truth insensibly overcoming their hostility. Even the English constitution was not truly free till after Wickliffe and others like him had breathed upon the dry bones of the kingdom. The whole historical growth and maturing of that constitution shows, that it is hard for a nation to arrive at a settled order of freedom without christian knowledge; and hard, when once they are possessed of this knowledge in a fair degree, to keep them slaves. Other influences had their effect, but this was stronger than them all. Chivalry, commerce, and the press, each in turn, did something for the liberties of England; the gospel how much more. Those, in their succession, brought the monster of misrule to bay; this slew him. England never saw greater tyrants than the last Tudors and the Stuarts. English tyranny was in



its palmy state when the sun of the reformation rose above the horizon. It was reserved for the despised and persecuted *puritans*, to work out the national deliverance. An event which even Hume gives them the credit of, and which all the prior agencies of renovation had failed either to achieve or render probable. The puritans were the founders of English liberty.

The liberties of America too bear date in their blood. And when the faith by which the puritan fathers were animated shall cease to inspire their descendants, then will the golden bowl of our institutions be broken at the fountain, and hope itself take leave of a reprobate land. We began a christian people: we have continued such through many changes, some of which have left us worse than they found us, but yet not desperately fallen: christianity is still incorporated with the frame of our government and laws: our intelligence, our virtue, our political freedom, still confess the impulse and enjoy the life it has given:—shall we preserve these blessings, or throw them away?

## CHAPTER VIII.

### POPULAR MISTAKE CORRECTED.

THERE is however a mistake of some magnitude, and of great prevalence, of which the public mind must be disabused, before the true weight of the argument can be generally felt.

Christianity has two aspects, one looking to heaven, the other to the world. In the first, it is a scheme of gracious polity, administered solely by its author, for the advancement of his kingdom in the salvation of mankind. The church, and some of its more remarkable doctrines and observances, belong to this view of the subject. To connect these with the machinery of human government is utter perversion.

On the other hand, it has pleased God to give us, along with what may be termed peculiar christianity, a code of collateral ethics, suited precisely to our social condition, and so to the very ends

of human government. This is the *moral* aspect of the gospel; an aspect in which it not only does not shun, but courts, the concurrent agency of statesmen and politicians. Peculiar christianity, the miraculous economy of the law and mercy of God as addressed to fallen men for their recovery, must be left to him; we may not meddle with it; but passing this, there is no further prohibition; all the other trees of the garden are free.

Now this distinction has been grievously overlooked; and nations not a few have paid dear for the oversight.

The more usual form of practical error to which the confounding of moral with ecclesiastical christianity has led, is the reverse of what we seem to be making trial of in America; being the error of attempting too broad a connexion with the subject, and not of excessive caution and jealousy concerning it; of drawing even the church into the embrace of the laws, and not of rejecting religion itself to keep the church at proper distance; as if principles were identical with politic order, and no middle course could possibly be taken. Thus, in a dilemma of alternative blunders, Europe hangs upon one horn, and we are dangling at the other.

Nor can we flatter ourselves that the lesser folly is ours. The church indeed is an organic institution, essentially theocratical; what have mortal governors to do with it but to guard it from

external wrong? How dare they undertake to couple it with their own devices? But then it does not follow from the danger of this kind of experiment, that we are safe in going to the opposite extreme, and becoming a nation of free-thinkers. The European statesman hugs the church, and calls it an establishment of *religion*. This is bad enough. American politicians turn religion out of doors, and call it keeping clear of the *church*. This is worse.

On both sides — certainly on ours — there is a manifest confusion of ideas, a blending together of things that should be carefully discriminated.

What occasion but from hence had Mr. Jefferson to reply as he did to the fastday applicants? They asked him for a recommendation — he gave them a discourse about delegated powers. Could such an absurdity happen but by misconception?

They, it is true, were ecclesiastics; but they had no ecclesiastical views at the time. He was a layman, soul and spirit, and yet could think of nothing but priests and churches, and the mischiefs they portended to the political state. The inability he halted upon, related not to what was really the object of their suit, but to a bugbear of his own fancy. He did not tell them that he had no power of action in regard to religion, a personal matter, in which he was of course free; but to "*religious institutions*," or in other words, the

church ; which however they had not alluded to. Over “ religious institutions,” he protested, “ *their* doctrines, discipline, and exercises,” he had no control, and could exert none.

Very true — and what then ? He doubtless imagined he was speaking to the purpose, for his mind was in general a fair and frank one ; yet how wide of the mark ; and this in a double respect. Power, in his sense of it, was no way called for. The religious public needed not to be driven to their duty. What they wanted was a mere suggestion, a hint from some central and respected source, to give uniformity of time to their proceedings. And they wanted this, not for the church in particular, but for the people at large. If therefore he had listened coolly, he must have perceived, that it was a thing of *christian morals* only that was asked of him ; and that it would on his part be no exertion of authority, no meddling with religious institutions or their affairs, but an act of national decorum and virtue — neither more nor less — to comply.

Instead of which, he seems to have taken alarm at the approach of pious feet, as if the sins of an establishment were already clinking in his ears ; and without dreaming of the general duties and decencies of christianity as distinguishable from its organic features, he set about intrenching himself in a false position, alike discreditable to his



discernment and injurious to the best interests of his country. What pity that he should not have trusted his own good sense for a better judgement. What pity, that in his haste and indiscrimination, he should have sought to turn against religion generally, a distrust which the laws bear only to an abuse of its forms ; against piety and morals, the odium which a secularized and desecrated church has alone ever provoked, or can deserve.

The mistakes of great men are eagerly copied by their admirers. Much of the unchristian thinking and feeling that has betrayed itself in various political quarters since the time of Mr. Jefferson, may be traced to his example ; while, like pictures by bad artists, it more than adopts, it exaggerates, and heightens into something like caricature, the worst points of the original.

The rage against chaplains and religious exercises in some of our state legislatures, may be thus explained. Clergymen being church officers, to employ and pay them, though for services distinct from the ecclesiastical functions of the office, has been deemed a sort of church preferment, and therefore inadmissible without a special grant of authority for it. That the duty they discharge in praying with these lay assemblies is *unofficial*, or at least, a duty less of office than of personal piety, and which their habits chiefly qualify them for, is unattended to : attention goes no further than the

fact that they are clergymen, and as such, church officers, upholders of an institution foreign to state government, and of which the author of "the revolution of 1800" made no secret of his dislike.\* Even to be prayed with by such men, is held objectionable; though the alternative of doing without them is confessedly that of not praying at all.

And to this, in at least one instance, it has actually come. There is an ignorant and heedless misconception abroad, that is blind alike to the moral bearings of religion on the one hand, and the moral exigences of the social state on the other. Nothing else could have prepared for us, or prepared us as a people to be tamely satisfied with, the corrupting and scandalous exhibition we have lately witnessed in New-York for the first time — may it be the last — *an unpraying legislature*.

Nay it is probable, that even the majority of the sabbath mails committee, in the most elaborate effort ever made in this country for the political annihilation of christianity, were misled as much by wrong notions in this respect as by ill intentions.

It is amazing to compare the duty those gentlemen were appointed to execute, with their performance of it. The question was two-fold; first, whether the mails ought, as they were wont, to run on the sabbath-day; and if not, then whether

\* 3 Jeff. Writ. 469.

congress had power to redress an executive misconstruction of the act under which the practice had arisen. Of this power, as a general fact, no man in his senses could doubt. So that the real point of the inquiry was the ethical one, of what, in truth, it *became a christian legislature to do* in the circumstances. If it be *necessary*, a husbandman may gather his corn on the sabbath; *and if necessary*, government might lawfully use that day for the transmission of the mails. I judge them not: I only give the proper rule of judgement: and I say, it was to them a rule of *ethics* — christian ethics to be sure, for we are a christian people; but yet ethics: the whole length and breadth of the question lay in an ethical moot point.

And how did the committee proceed with it? By what the lawyers call a departure; saying not a word about the moral bearings of the subject, but exhausting themselves in a most vehement outcry against *ecclesiastical christianity*; which they arraigned of all the crimes and horrors, that were ever visited upon the world by either clerical or lay despotisms under pretence of its sanction. What public virtue or national consistency required, was never thought of. Startled at the spectre, of an application coming from religious men as such, and shocked, it seems, at the idea of conceding anything to the followers of Christ which those of Mahomet did not ask for and could

make nothing of, they felt themselves called upon to take ground at once against the encroachments of the church, and to vindicate the equality of the laws ; which, they insisted, had no more regard for the faith or conscience of a christian, than of an infidel or heathen.

Let us pause a moment.

Are the laws then equal in the sense here meant ? equal, not only in the freedom they guarantee, but in the favour they show ? not only in their toleration of opinions, but their choice and patronage of principles ?

The proposition has much to contend with.

In the first place, it assumes that the laws falsify the national character ; a thing impossible in a free country.

In the second place, it impugns the legality of many of our state constitutions in the matter of religion ; which was never done before.

In the third place, it contradicts the statutes of the land, both federal and local, for they are christian.

Again, the universal common-law is against it ; this also is christian.

Finally, it quarrels with that great canon of our popular politics, the rightful prevalence of the majority ; a canon to which we have hitherto given undisputed dominion not only at the polls but in the cabinet, the legislative hall, upon the

bench itself, everywhere. And shall a few scattered dissenters from the general faith and ethics of the people set up for an exception to a rule like this?

It is said, the committee had a counter-petition from a number of Pennsylvania jews before them, asking (by way of jest, I suppose, upon the christian application) to have their seventh day sabbath adopted by congress. The authors of that ill-judged levity were probably ignorant of a case of some distinction then of record in the juridical annals of their own state,\* where a jew, like themselves, had made a somewhat awkward appearance in public, not indeed to insult the piety of other men, but to answer to a criminal prosecution for having already done so by profaning the sabbath of the new testament. On which occasion it was found (it may be well in future to remember the discovery) that the legal morals of the country were not jewish but christian; and that no pretence of infidelity as to the gospel system, or of devotion to any other, (judaism was distinctly his plea,) could so far evade the obligation of those morals as to exempt an open breach of them from punishment. "We have not the slightest difficulty," said the court, "in affirming the conviction of the defendant." And this was done, on the avowed

\* 3 Serg. and R. 48.



and necessary principle, of suiting the rules of the social order to "the great mass of citizens" as they were called, the bulk of those concerned. There may be jews, there may be mussulmen, among a generally christian population, but the law of the majority must govern.

And this is constitutional. Nothing absolutely unavoidable can be otherwise. Our whole economy is pervaded by the principle. The laws conform to it entirely. So far as they have any the least concern for religion, it is for christianity only; they know no other faith. Among the various sects professing this faith, they hold, or aim to hold, an even balance, treating all with like favor, out of a common respect for all, as children of one family. But here they stop. Other religions are protected; this alone is fostered. And the positive encouragement of this, under whatever name or guise of sectional distinction, has been often judicially sanctioned; episcopalians,\* congregationalists,† baptists,‡ lutherans,|| german-reformed,§ even shakers,¶ being already among the reported subjects of decisions to that effect.

The committee therefore, in assuming the absolute equality of men's legal standing, as independent of religious and moral character, stumbled at the very threshold of their work.

\* 9 Cr. 46. † 6 Mass. 417. ‡ 5 id. 531. || 2 Pet. 583. § 4 Har. and Mc. H. 429. ¶ 2 Dana, 170.

But a still more remarkable mistake followed. Their grand error (I speak of the majority) lay in another assumption, taken up with similar indiscretion, touching the nature of the question referred to them, which they denounced as purely *theological*, a question of ecclesiastical divinity, such as neither they nor congress could properly have anything to do with.

Here was a position of decisive import. Of course, when they had mastered this, the residue of their task was easy. And they went about it nearly in the spirit of Voltaire's celebrated motto; drawing on their historical recollections, and their inventive faculties, not for argument but rhetoric; not to guide conviction but to furnish predetermination with something to say; not to ascertain what christianity is really good for in a free republic, but to load it with disguises and calumnies that if possible should make the republic hate it whether or no.

Without enlarging on the spirit of this transaction, how palpable is the mistake involved in every part of it.

"The committee," say the majority of them, "look in vain to the constitution for a *delegation of power*" (Mr. Jefferson's puerility over again) "to inquire and determine what part of time, or whether any, has been set apart by the Almighty for religious exercises;" and they take for granted,

very complacently, that congress will never think of coming to “a legislative decision of a *religious controversy*.” As if such a controversy were in truth before them, and a question of power could possibly arise concerning it!

Is the obligation of the sabbath, then, a thing in dispute? and whether disputed or not among speculators, do practical moralists dispute it? Is it not an obligation immemorially settled both in public opinion and in legal morality? Are not our statutes full of it? Do not our courts of justice enforce it? Have not congress themselves acknowledged and observed it from the beginning of the government downwards? Are there not acts upon acts of theirs, enjoining it in peremptory terms, and denouncing penalties for disregard of it?—And are we to be told, at this time of day, that it is a matter of doubtful theology, and not of clear, settled, and indispensable good morals, incorporated already with the whole body of our laws?

Give a madman his premises, and he will sometimes reason correctly; but a false assumption makes a wise man mad.

Right and duty are the two sides of every account in theoretical morals; but with this peculiarity of relation, that an audit of either settles both. While therefore the municipal laws are externally conversant about men's rights, and the gospel, playing round their hearts, urges the per-

formance of their duties, the great outlines of the moral code are common to these agencies and effectually unite their forces. Our christian ethics are essentially legal, and our legal ethics christian. To say that the law-making power has no concern with christianity, is little better than it were to say, that christian citizens have none with the laws. Christianity in its moral aspect, and the laws in theirs, supposing them what they ought to be, and allowing for difference of extent, coincide exactly ; and with this advantage to the laws and the country from the connexion, that christianity is the animating and sustaining influence, while the laws, without it, must soon fall into hopeless decay.

Is nothing to be considered at rest in the political world? Are first principles to share the fate of those that are truly doubtful, and be tossed and sported with in endless agitation, like bubbles on the ever-raging sea?

What will our patriot visionaries have the morals of the country to consist of? Sunday, they say, is biblical. Can they point to anything we justly prize in morals that is not? They talk of virtue, but mean virtue in the abstract. What is that but an idea? Can the country subsist upon abstractions? If our morals are to avail us, they must be practical. Have we any such? any that are not branded and made over to "religious

controversy?" any, of which the obligation is to be no more questioned by public men, by politicians?

What then are they? and whence derived? Is there a virtue in our boasted catalogue after all, that does not owe, if not its existence, yet its happiest development at least, to the bible? where has the doctrine of virtue been so amassed, and yet condensed, as in the decalogue? where so divinely expanded and diversified, as in the evangelical writings? The chief end of government is administrative justice: where has the virtue of justice been displayed and magnified as in the gospel dispensation, that weighs heaven and earth without reserve against a tittle of it? To practical justice in society, peace, forbearance, gentleness, charity, are essential auxiliaries: and was peace ever honoured as by the prince of peace? Where but in the records of his kingdom, has a love of peace been heard of, that in no circumstances avenges itself? Where else is such forbearance to be found? such gentleness and condescension? such kindness to the poor and miserable? such wide-reaching, all-embracing benevolence and goodness? In personal example, what humility like that the cross at once illustrates and inspires? What temperance and moderation, what self-denial, what simplicity of living, what universal purity of hand and heart, to be



compared with what the religion of the cross inculcates and enjoins?

And because it so happens, that christianity, besides its invaluable system of practical morals, has a church also, and a branch of doctrine with it, that are not within the just range of political enterprise, are we therefore to cut loose from the whole subject? rejecting all, for no better reason than that part is inapplicable? Shall a government, and a legal economy, that unquestionably are what they are by the grace of christianity alone, dare all at once the experiment of atheism?

The discrimination is an easy one, if men would have patience to attend to it. *Ecclesiastical* christianity is neither to be adopted nor rejected by political men as such. Honour it, and let it alone. Regard it not as evil, but rather as an infinite good, which yet may become evil by abuse. *Ethical* christianity, however, should be embraced, as well as honoured. Our statesmen, our administrations, cannot possibly have too much of it.

## CHAPTER IX.

### CONCLUSION.

ONE thing, and but one, remains. It is the problem of turning the subject to a definite account in practice. In what manner may a system like ours be usefully acted upon by religion, or in turn react upon the religion of the people? Are we to have establishments again? Certainly not. Or a government war against heretics? By no means. Is there any thing that can be done to advantage?

The case speaks for itself.

1. And first, *all political railing against religion and religious men, should cease.*

Does this admit of a doubt? Is there a candid infidel that doubts it?

Above all things, *official railing against christianity is positively atrocious.*

It is *slandrous towards the institutions of the country*, which office is appointed to administer, not to degrade.

It is *a perversion of the influence of delegated power* ; for while no power is given for direct religious action, independently considered, how much less for active irreligion, the ribaldry of unbelief.

Lastly, it is *an invasion of private right*. It inflicts pain where the laws denounce no penalty. It hinders the enterprises of piety, where there are no legal barriers against them, and where, to say the least, they can do the state no harm. As therefore every citizen is entitled to go at large so long as he remains innocent, and to be held innocent so long as guilt is not in proof against him ; it is no prerogative of office, but an outrageous abuse, to take advantage of it for assailing publicly the characters and doings of men not otherwise impeached.

Nay it is a breach of the highest order of rights. Can power take a man's property from him, though for public use, without " due course of law ?" And in what scale of estimate are his reputation, his feelings, his most valued pursuits, less dear to him, or less entitled to be safe from aggression ? Were he under sentence of death by the gibbet, you could not lawfully empale him, nor add one pang to the appointed sufferings of his last hour. Culprit though he were, the constitution would go down to the grave with him, and shield his very corpse from the slightest unnecessary insult. And

will not equal protection be given to christian citizens, unblemished, unaccused, fresh in the integrity of their fame ?

2. But secondly, it is not enough that public men abstain from the injustice and indecency of irreligious speaking and writing ; they should set *a positive christian example*. Example is no inconsiderable part of the duty of office in its relation to the people, inasmuch as they are entitled to all the benefits fairly deducible from the trusts they confer.

Political, next to military distinction, takes the popular mind with the most captivating force. And when, as sometimes happens, distinctions in both kinds are thrown together, the influence of example becomes despotic. With these on his side, a single favourite of fortune, how free soever his country may be called, can drag it after him at pleasure, especially in the matter of its morals, which are its life. When Charles the fifth, and Francis first of France, appeared before their subjects in the degrading posture of duellists, with what a magical sympathy did all the world about them rush into the frenzy of the avenging passions. Every one assumed the fighting attitude. Insults were given for the very sake of the challenges they were to lead to ; and personal violence and bloodshed, no longer the privilege of a particular class, became general, and even vulgar. Nor will like causes fail of like effects wherever the experiment is tried.

But what in special, it may be asked, are rulers to do ?

They are to set an example of *true virtue in their individual deportment* — this is one thing — honouring distinctly and habitually the entire institute of the gospel, for that is our standard of virtue. That they should all be theologians, or even professors of the gospel faith in a rigid sense, is more to be desired than expected ; but their visible behaviour should be such as the ethics of christianity can take no exception to : the divine name and government, the bible, the sabbath, the church itself, with everything that belongs to it, should be treated with invariable respect, while the details of the moral law should mark conspicuously the whole aspect of their lives. It is both right and salutary that we should see these things in our high places. Such an exhibition constantly in view, would do much more than our courts of justice can, to keep down popular excitements, to preserve the general manners from corruption, and to enrich us with the legitimate fruits of our institutions.

Moreover, not only public men but *public bodies* have christian responsibilities upon them. God is pleased to require two kinds of acknowledgment from his creatures ; one, of the heart, which is necessarily personal ; the other, by sensible acts, which is ritual and social : and though the heart ought to join in both, yet ritual piety is a duty by



itself, and one which representative bodies are bound, at the peril of those at least for whom they act, to perform — possibly for the reason, that those they act for cannot so conveniently unite in performing it for themselves.

It has accordingly been the usage of our legislative assemblies, time out of mind, to open their daily sittings with an act of devotion. It has seemed to them fit, that frail, imperfect men, attempting the highest function of sovereignty in making laws for their fellow-men, should ask the sovereign of the universe to help their infirmities. Thus much for their own and their country's joint benefit. Nor is it questionable that the representatives of a christian people ought, in strict propriety of that relation, to bring their constituents at times before God in their persons, as the simplest and easiest method of approach, by which state-homage can be rendered to the king of nations.

Shall we, as a people, forsake the God of our fathers? He has owned us often, and we have many times owned him — shall we not continue to own him? And is not the practice of doing so by representative agencies, as agreeable to the known principles of his government as of our own?

Let us not break off our highest allegiance through default of those whose solemn duty it is to stand as well before him as the world, in our behalf. Even if they do not all agree with us in

faith, and though some perhaps may hate the religion we profess, yet let them not deny us the right to be fairly and fully represented by them, such as we are. If Franklin, himself an unbeliever, but a great and liberal mind, could propose and argue for the observance of public worship in the convention of 1787, how can the petty infidels of our day insult the moral sense of the country by setting up the vicious irreverence of their own sentiments against a long established practice of that kind in the state legislatures? National acknowledgments are demanded by the Most High. He will have states, as well as individuals, cast their honours at his feet. And shall we refuse? we, who were born in his temple, and whom he has so marvellously nourished and brought up? Shall a whole people be put in a posture of impious recusancy, because two or three official blasphemers choose to set him at defiance?

There is indeed a mode, in which the national piety may express itself without vicarious assistance, namely, by general fasts and thanksgivings.

But here, in the first place, the occasion must be uncommon, and of an interest calculated to insure its being seriously kept. The people ought to see and feel, that it is an occasion which the observance does not make, but only conforms to; for otherwise there is danger of abuse and mischief. Great emergencies naturally prompt a people to religious acts; and under that influence

they may hope to make their service what it should be. This however is the limit. All beyond, if not hypocritical, will be formal at best, and probably irreverent and offensive.

Besides, though the occasion be sufficient, there is no fixing a precise day for keeping it, without the aid of the political government, or some one or more of its officers.

In all events therefore, if the religion of the country is ever to be called forth in a national way, our rulers must be somehow accessory to the fact. There is no alternative. And again I ask, shall we be denied this boon? Will they neither pray for us, nor allow us as a people to pray for ourselves? Are we to hold no intercourse whatever with the disposer of our destinies?

3. Finally, it becomes us to aim at more than visible proprieties. *Our reformation should go deeper. The very springs of our political action should be readjusted.* The mechanism of our system has a primary and a secondary class of movements, an organizing, and a ministerial one. Why should not both be regulated by principles of the very highest order?

It may be thought, perhaps, that the application of a strictly religious honesty to the use of the elective franchise, would lead to an undue partiality in the distribution of office, by excluding irreligious citizens from their fair proportion. But to judge of this, we must consider what the rights of

such men are in that respect. Under a christian government, and among a christian people, the trusts of the public service are also christian ; and if so, what have men of an opposite character to do with them ?

Admitting, moreover, the theoretical impartiality of the constitution, it is plain that candidates for office can be no more free to enter the lists of competition, than the electors are to choose or reject them at discretion. Freedom on both sides takes away the notion of rights from the case. That can never be the right of a citizen, which his fellow-citizens may lawfully withhold from him. Nor can he be said to suffer wrong at their hands, so long as their liberty in regard to him is not corruptly abused.

What then should be the grounds of a popular election ? what but the perceived fitness of the candidate for the office ; the instrument, for the work to be done ? In the political world as elsewhere, figs are not gathered of thorns. Are christian institutions to be administered by unchristian agents ? Ought they ? We cannot search the heart, but should not the indications of the life be christian ?

How inconsistent are mankind. There is probably no one circumstance of character, save only its religious stamp, that our electors do not hold themselves entitled to weigh at its value. A man may be a cheat, and a pickpocket, and yet be consti-

tutionally free to offer himself for their preference ; but who doubts their equal freedom to spurn his pretensions ? Indeed, if a person be not of a particular party, or do not choose to follow this or that leader of faction in the state, they make no scruple of setting him aside for that cause ; while yet the inquiry whether he be a follower of Christ or Belial, is disallowed !

I do not say, that persons of known piety should alone be admitted to the people's confidence ; but I hope it may be said without offence, that other things being equal, such should be preferred ; and this, not for their sake but the country's ; not because office is a boon to be given to the worthiest, but a trust, upon the due execution of which the country has every thing at stake. The mere honesty of government agents is a matter of incalculable value, and no reasonable precaution for securing it should be omitted.

We want, however, more than honesty ; we want the government honestly administered *on christian principles, and with christian ends in view* — such principles and ends as were originally embraced in all its politics, and which we cannot disregard, without being faithless alike to the memory of the past, the wisdom of the present time, the safety of the future.

Why do we still venerate the patriarchs of the revolution ? Why is Washington a name we still are proud to repeat ? Do we adhere to the views



of our political founders? Do we hold the government in devout subjection to an over-ruling providence as they did? Do we even profess to esteem it now a christian government? Are there not efforts making to dislodge the very forms of piety from all connexion with it?

And when these are gone, where will the substance be? Forms usually linger behind the principles they spring from. Pagan forms were to be seen among the institutions of the eastern empire long after christianity had ascended the throne of the Cæsars. Are we about to reverse the illustration? Has the substance of our religion taken flight already? and are we now engaged in obliterating the traces of angel feet that are never more to return among us?

God preserve us, we must go back; we must reform our political administrations in the all-important point of their moral principles. Our christian population must do this: it is a work for them, and every other work of theirs will be hindered till this is done. We must retrace our steps; retrieve our errors; regain the position we have lost. Reform is wanted in another sense than what party-schemers think of. Let us have a reformation of the elements of public life; let us dig up the buried standard of the fathers, and fashion ourselves anew by it; let us return to the primary spirit of the government, ere the doom of the nations that forget God become our own.

















